

**PROPOSED CODE ADOPTION LOCAL LAW**  
**for the**  
**CODE OF THE TOWN OF HENRIETTA, NEW YORK**  
**December 2014**

GENERAL CODE  
781 Elmgrove Road  
Rochester, New York 14624  
(585) 328-1810 or 800 836-8834  
FAX (585) 328-8189

## *Local Law Filing*

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**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**Town of Henrietta**

**Local Law No. .... of the year 2015**

A local law to provide for the codification of the local laws, ordinances and certain resolutions of the Town of Henrietta into a Municipal Code to be designated the "Code of the Town of Henrietta."

**Be it enacted by the Town Board of the  
Town of Henrietta as follows:**

**(SEE ATTACHED)**

(If additional space is needed, attach pages the same size as this sheet, and number each.)

1. Chapter 1, Article I, of the Code of the Town of Henrietta is repealed.
2. A new Chapter 1, Article I, is adopted to read as follows:

**ARTICLE I**  
**Adoption of Code**

**§ 1-1. Legislative intent.**

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Henrietta, as codified by General Code, and consisting of Chapters 1 through 295, together with an Appendix, shall be known collectively as the “Code of the Town of Henrietta,” hereafter termed the “Code.” Wherever reference is made in any of the local laws, ordinances and resolutions contained in the “Code of the Town of Henrietta” to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

**§ 1-2. Continuation of existing provisions.**

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Henrietta, and it is the intention of said Town Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

- A. All local laws and ordinances of a general and permanent nature of the Town of Henrietta in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.
- B. The following legislation is specifically repealed by this local law:
  - (1) An ordinance regulating brush, grass and weeds adopted June 2, 1971 (Chapter 43 of the 2001 Town Code).
  - (2) Local Law No. 2-1991 regulating elevators (Chapter 98 of the 2001 Town Code).

**§ 1-4. Enactments saved from repeal; matters not affected.**

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Henrietta prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Henrietta or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Henrietta.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Henrietta.
- E. Any local law or ordinance of the Town of Henrietta providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Henrietta or any portion thereof.
- F. Any local law or ordinance of the Town of Henrietta appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Henrietta or other instruments or evidence of the Town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.
- K. Any local law, resolution or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for Town employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.
- N. Any local law or ordinance adopted subsequent to February 14, 2013.
- O. Original § 295-67 of the 2001 Town Code, Zoning descriptions.

**§ 1-5. Severability.**

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

**§ 1-6. Copy of Code on file.**

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Henrietta and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Henrietta by impressing thereon the Seal of the Town of Henrietta, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

**§ 1-7. Amendments to Code.**

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the “Code of the Town of Henrietta” or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

**§ 1-8. Code to be kept up-to-date.**

It shall be the duty of the Town Clerk to keep up-to-date the Code of the Town of Henrietta. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Town Board to be a part of said Code shall, when finally enacted or adopted, be included therein.

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

Copies of the Code, or any chapter or portion of it, may be purchased from the Town Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

**§ 1-10. Penalties for tampering with Code.**

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

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

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Henrietta, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsections B and C hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)
- C. Throughout the Code, the term “Fire Marshal” is changed to “Fire Marshal/Building Inspector.”

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

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

**§ 1-13. When effective.**

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

(Complete the certification in the paragraph that applies to the filing of this local law and strikeout that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the (Name of Legislative Body) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the (Name of Legislative Body) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the (Name of Legislative Body) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County) (City) (Town) (Village) of \_\_\_\_\_ was duly passed by the (Name of Legislative Body) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved) (not approved) (repassed after disapproval) by the (Elective Chief Executive Officer\*) \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

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\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_, above.

\_\_\_\_\_  
Clerk of the county legislative body, City, Town or Village Clerk or officer  
designated by local legislative body

(Seal)

Date: \_\_\_\_\_



## General Code Code Adoption Checklist

*[Documents provided by General Code are **boldface**. Optional documents which can be provided by General Code are underlined.]*

1. All municipalities:

- ☐ Submit **proposed local law** to the municipal attorney for review.

2. If zoning or land use revisions are part of the Code Adoption:

- ☐ Submit any zoning or land use revisions to the County Planning Board for review in accordance with General Municipal Law §§ 239-l and 239-m. The County Planning Board has 30 days for its review. If no approval, modifications or disapproval is given within 30 days, the proposed revisions shall be considered approved.
- ☐ Initiate State Environmental Quality Review process for any affected chapters (zoning, land use, subdivision, etc.) to declare the revisions a Type II action or for a negative declaration, assuming the revisions will not have an effect on the environment. (See Article 8 of the Environmental Conservation Law and 6 NYCRR Part 617.)
- ☐ Public hearing notice must be 10 days in advance of the hearing.
- ☐ See \*\* under 3 below.

3. All municipalities:

- ☐ Pass the resolution to hold the public hearing.
- ☐ Print the notice of public hearing containing a summary of the **proposed local law** in a paper having general circulation in the municipality at least three days (or five days, depending on local procedures) prior to the hearing. [See above for 10-day notice requirement for land use legislation.]
- ☐ Hold the public hearing for input on the proposed codification.
- ☐ Pass the resolution to adopt the local law.
- ☐ \*\*In the local paper, print the notice of enactment with a summary of the contents of the **local law**. *(This publication is only necessary if there are zoning amendments in Schedule A of the Code Adoption Local Law.)*
- ☐ Within 20 days of final adoption, file the signed **local law** in the municipal offices in the local law book and submit one 8½ x 11 inch copy to the office of the Secretary of State. *NOTE: The **local law** includes the text of §§ 1-1 through 1-13 and **Schedule A**.*
- ☐ Forward one as-adopted copy of the **local law** and a signed copy of the **Certification Page** to General Code within 90 days for inclusion in the Code. [If the adopted local law is received within the 90-day period, the local law (without the Schedule of enumerated changes) will be included in the Code at no cost.]

**C E R T I F I C A T I O N**

**TOWN OF HENRIETTA**

**Office of the Town Clerk**

I, **Leeann Case**, Town Clerk of the Town of Henrietta, New York, hereby certify that the chapters contained in this volume are based upon the original legislation of a general and permanent nature of the Town Board of the Town of Henrietta, and that said legislation, as revised and codified, renumbered as to sections and rearranged into chapters, constitutes the Code of the Town of Henrietta, County of Monroe, State of New York, as adopted by local law of the Town Board on \_\_\_\_\_, \_\_\_\_\_.

Given under my hand and the Seal of the Town of Henrietta, County of Monroe, State of New York, this \_\_\_\_\_ day of \_\_\_\_\_, at the municipal offices of the Town of Henrietta.

**s/Leeann Case**

\_\_\_\_\_  
Town Clerk

## **Town of Henrietta Code Adoption Schedule A**

As set forth in § 1-11B of this local law, the following amendments and additions have been made to the Code of the Town of Henrietta:

### **Chapter 6, Adult Use Establishments; Public Exposure**

1. Section 6-4B is amended to read as follows: “Offenses against the provisions of this section shall be punishable by a fine in an amount not to exceed \$250, a term of imprisonment not to exceed 15 days, or both. This section shall be enforceable by injunction.”
2. Section 6-5A is amended to read as follows: “Except in those establishments expressly permitted by this chapter, a person is guilty of exposure if he or she appears in a public place, including a play, in a state of nudity or in such manner that the private or intimate parts of his or her body are unclothed or exposed.”
3. Section 6-5B is amended to read as follows: “Female breast below a point immediately above the top of the areola, except where exposure is related to breastfeeding.”
4. Section 6-6A is amended to read as follows: “Except in those establishments expressly permitted by this chapter, a person is guilty of promoting the exposure of a person when he or she knowingly conducts, maintains, owns, manages, operates or furnishes any public premises or place, including during a play, where a person appears in a state of nudity, as defined in § 6-5B herein, or where a person appears in such a manner that the private or intimate parts of his or her body are unclothed or exposed.”
5. Section 6-6B is amended to change “15 years” to “15 days.”

### **Chapter 13, Alarm Systems**

1. Section 13-3, Definitions, is amended to repeal the definition of “permittee.”
2. Section 13-7 is amended to read as follows: “Such fire alarm permit shall be kept on the premises where the alarm system is located. The Fire Marshal may issue an appropriate permit identification tag and establish requirements for its posting.”
3. Original § 13-13A of the 2001 Town Code, regarding grounds for suspension and revocation of an alarm business permit, is repealed.
4. Section 13-14 is amended to delete penalties for failure to have an alarm business or alarm agent permit.

### **Chapter 25, Appearance Tickets**

Section 25-1 is revised to add “Code Enforcement Officer” and “Safety Officer” to the list of officials authorized to issue appearance tickets.

### **Chapter 35, Bingo**

Section 35-3 is amended to permit games on Sunday as follows: “Any game of bingo conducted within the Town pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as “Sunday.”

## Chapter 48, Building and Development

Section 48-11 is amended to read as follows:

- A. *A building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of 18 months after the date of its issuance.*
- B. *The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable building laws, ordinances or regulations. All work shall conform to the approved application, plans and specifications, except that no building permit shall be valid insofar as it authorizes the performance of work or the use of materials which are not in accordance with the requirements of the applicable building regulations.*
- C. *The Town Board may grant a permit extension where an extension would not conflict with the best interests of the Town, including the public health, safety and welfare. Application for an extension must include confirmation from the architect/engineer of record that the plans and specifications remain in compliance with the New York State Uniform Fire Prevention and Building Code in force at the time the extension is applied for.*
- D. *Enforcement of building permits shall be administered by the Building and Fire Prevention Department.*

## Chapter 52, Buildings, Numbering of

Section 52-1A is amended as follows: “A principal building used or to be used for residential, mixed occupancy, commercial, industrial or storage purposes shall bear or display at least one set of street numbers assigned to it. In the case of new construction, no certificate of occupancy will be issued unless building numbers conforming with this section are installed.”

## Chapter 56, Buildings, Unsafe

1. Section 56-1 is added to read as follows:

### ***§ 56-1. Applicability of state law.***

*The provisions of this chapter shall be in addition to, and in furtherance of, the New York State Uniform Fire Prevention and Building Code, including but not limited to Sections 107 and 108 of the Property Maintenance Code of New York State.*

2. Section 56-4D is amended to change “securing or removal” to “securing/repair or removal.”
3. Section 56-8 is added to read as follows:

### ***§ 56-8. Emergency action by Town.***

*In the event that a structure suddenly becomes unsafe or a hazard to the general public, such as in the case of a fire, flood, tornado, earthquake, or other similar event, the Town shall notify the building owner to secure the building and/or premises in such a manner as to make it safe. If the owner or a property manager is not available or is unwilling to comply, the Fire Marshal/Building Inspector, or his or her designee, shall have the authority to have the building or premises secured in a manner so as to make the building or premises safe. The building owner shall be responsible for all costs associated with securing*

*said property. This provision will also be applicable in the case of structures that have become unsafe or hazardous to their occupants only.*

## **Chapter 79, Dogs**

1. Section 79-4A is amended to add the following sentence: “These fees are nonrefundable.”
2. In § 79-5, the definition of “dog or dogs” is amended to change “six months of age” to “four months of age.”
3. Section 79-8A is amended to change “applicable fees” to “applicable nonrefundable fees.”
4. Section 79-8H is amended to read as follows: “It shall be unlawful for an owner to permit a dog to howl, bark, yelp, cry, whine or conduct itself in such a manner so as to habitually or continuously disturb the peace and quiet of other persons at any time of day or night. As used in this subsection, “habitually or continually” means a dog howling, barking, yelping, crying or whining for repeated intervals of at least five minutes with less than one minute of interruption, which can be heard by any person, including a law enforcement officer or Animal Control Officer, from a location off the owner’s or caretaker’s premises.”
5. Section 79-9A is amended to read as follows: “Any dog in violation of this article may be seized at any time by the Animal Control Officer or any law enforcement officer.”
6. Section 79-9D is amended to read as follows: “The owner of a licensed dog may redeem the dog within five days by producing to the Animal Control Officer or the Town Clerk’s office a license for the dog and by paying to the Town Clerk or Animal Control Officer the cost of the seizure and cost of boarding, as set from time to time by resolution of the Town Board. If the dog is unlicensed, a license must be obtained regardless of the age of the dog before the dog can be released by the Animal Control Officer or the Town Clerk’s office. If not so redeemed, the owner shall forfeit all title to the dog, and the dog shall be adopted or euthanized.”
7. Section 79-9E is amended to read as follows: “If the dog seized bears a current license tag, the Animal Control Officer or law enforcement officer shall notify the owner of the seizure, and the owner will have five days to redeem the dog. If such notification is done by mail, the owner will have seven days to redeem the dog.”
8. Section 79-9J is added as follows: “The Town hereby requires that all dogs adopted following seizure pursuant to this article be spayed or neutered before or after release from impoundment as required by Agriculture and Markets Law § 377-a.”
9. Section 79-15 is amended to read as follows: “Any person who observes or has knowledge of a dog in violation of any section of this article may file a signed complaint, under oath, with the Animal Control Officer of the Town of Henrietta, specifying the objectionable conduct of the dog, the date thereof, the damage caused, a description of the dog and the name and residence of the owner of said dog.”
10. Section 79-18 is amended to read as follows: “Any person who violates or knowingly permits a violation of this article shall be guilty of an offense and shall be subject to a fine of not less than \$25 for the first violation, except that where the person was found to have violated this article within the preceding five years, the fine may be not less than \$50, and where the person was found to have committed two or more such violations or to within the preceding five years, it shall be punishable by a fine of not less than \$100 or imprisonment for not more than 15 days, or both. Each separate offense shall constitute a separate additional violation. In addition, a dog found to be dangerous may be ordered destroyed at the discretion of the court.”

## **Chapter 81, Donation Bins**

Chapter 81 is added to read as follows:

### **Chapter 81 DONATION BINS**

#### **§ 81-1. Definitions.**

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

**DONATION BIN OR CONTAINER** — *Any enclosed receptacle or container made of metal, steel or a similar material or a similar product designed or intended for the donation and the temporary storage of clothing, toys or other items.*

#### **§ 81-2. Permit required.**

*Donation bins and/or containers must receive a permit from the Fire Marshal/Building Inspector before being placed anywhere within the Town limits.*

#### **§ 81-3. Maintenance, placement and insurance requirements.**

- A. Donation bins or containers must be noncombustible and be able to be closed and locked if necessary.*
- B. The size of the bin or container will be limited based on the location and items being received.*
- C. Bins or containers must be emptied on a regular basis so as to not exceed their capacity. In the event of noncompliance, charges to clean them up by the Town will be assessed against the permittee and/or a fine will be imposed.*
- D. The applicant must provide adequate liability insurance insuring the Town and/or owner of the property upon which the bin is approved for placement, to cover any potential damage, fire, or other incident that may be caused by the bin.*
- E. The location of bins or containers will be part of the permitting process and determined so as to eliminate any setback issues and to assure a proper nondisruptive location.*
- F. Donation bins or containers shall be maintained such that their exterior appearance is kept free of rust and their exteriors are otherwise maintained such that they are repainted or refinished where paint has significantly faded or chipped away, etc.*

#### **§ 81-4. Fees.**

*A permit fee as set from time to time by resolution of the Town Board will be imposed to cover the cost of the application process and management of the maintenance potential.*

#### **§ 81-5. Penalties for offenses.**

*In the event that a donation bin or container is placed without a permit as required by this chapter, the bin owner and/or owner of the property on which the bin is placed will be subject to a fine not to exceed \$250, 15 days' imprisonment, or both, in addition to the costs incurred by the Town in removing the donation bin or container.*

## **Chapter 84, Drainage**

1. Section 84-13 is added as follows:

#### **§ 84-13. Residential manhole covers.**

*Residential manhole covers shall be maintained in accordance with the requirements of Chapter 219, Article II, Sewer Use, § 219-12.*

2. Section 84-17 is added as follows:

**§ 84-17. Ownership and maintenance of storm laterals.**

- A. *The property owner shall be responsible for any maintenance or repair of that portion of the storm lateral that he/she owns.*
- B. *The portion that the property owner is responsible for shall be any drainage infrastructure not otherwise located in a Town easement and/or any Town, county or New York State right-of-way, including drainage infrastructure located between any structure on private property and the right-of-way or easement.*
- C. *In the event of a blocked storm lateral and the absence of an existing cleanout, the property owner shall be required to have a cleanout installed prior to any repair work by the Town. The cleanout shall be located at the junction of the existing easement or Town right-of-way and the homeowner's property.*
- D. *All repairs to any storm laterals in the Town of Henrietta must be made with PVC SDR-21.*

3. Article III is added as follows:

**ARTICLE III**  
***Drainage Onto Neighboring Properties***

**§ 84-21. Drainage from gutters and downspouts.**

- A. *Concentrated flow from a concrete gutter or a downspout shall not be permitted to flow onto an adjacent neighbor's property.*
- B. *Review by Town. In furtherance of Subsection A, the Town shall review new developments and the location of downspouts.*
  - (1) *The flow from a concrete gutter coming from a new development shall be identified by the developer and reviewed by Town staff prior to project approval.*
  - (2) *The locations of downspouts shall be reviewed by Town staff prior to the issuance of a certificate of occupancy to ensure that drainage is not unfairly discharged onto neighboring properties. Alternatively, where feasible, new dwellings may be required to have their downspouts connected to a six-inch-diameter storm lateral.*
  - (3) *When residential subdivisions are reviewed by Town staff, grading plans shall be submitted to ensure that drainage swales are provided to prevent runoff from impacting neighboring properties.*
  - (4) *The Town's review shall not act as any warranty or guaranty that drainage will not violate this section or otherwise create a nuisance or damages after construction of any development. If, after Town review and completion of construction, drainage should ultimately violate this section or otherwise create a nuisance or damages, the owner of the offending property shall be required to remediate such issues.*

**§ 84-22. Drainage onto adjoining properties.**

- A. *Runoff from new developments shall not be allowed to drain onto adjacent properties unless the runoff is less than preexisting conditions, is a nonconcentrated flow, and does not significantly alter the existing drainage patterns.*
- B. *No materials may be stored, land disturbed or other work done to block drainage or to divert or cause runoff of groundwater or stormwater in an unnatural fashion.*

- C. *No shed, garden, swing set, playground, pool, yard waste, refuse, or similar structure, feature or substance shall be placed in drainage swales that are used to convey runoff. Before a building permit is issued for the construction of a fence, pool, or shed, the location of the fence, pool or shed should be reviewed by Town staff to ensure that existing drainage patterns are not blocked.*
- D. *Sump pump discharges should be directed away from adjacent properties. Whenever possible, sump pump discharges should be connected to a storm sewer system.*
- E. *A drainage report, with supporting calculations, and a drainage plan shall be required for any new development if drainage is being allowed to flow onto adjacent properties.*

**§ 84-23. Roof drainage.**

*Roof stormwater drainage shall be discharged in such a manner as to not flow onto adjacent properties. Concentrated water flow generated by downspouts, sump pumps, concrete gutters and drainage swales shall not be directed in such a manner as to allow stormwater to dissipate within the confines of the property or so as to convey the stormwater directly to an existing drainageway located, at least in part, on the property.*

**§ 84-24. Penalties for offenses.**

*Any person who shall violate any provision of this article shall, upon conviction thereof, be fined in an amount not to exceed \$250 or be imprisoned for not more than 15 days, or both. Each day's continued violation, after notice from the Town of Henrietta, shall constitute a separate and additional violation.*

## **Chapter 103, Environmental Quality Review**

Chapter 103 is amended to read as follows:

### **Chapter 103 ENVIRONMENTAL QUALITY REVIEW**

**§ 103-1. Definitions.**

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

*SEQR — The State Environmental Quality Review, as prescribed by Part 617 of Title 6 of the New York Codes, Rules and Regulations and the New York Environmental Conservation Law.*

*TOWN — The Town of Henrietta.*

**§ 103-2. Compliance required.**

*No decision to carry out or approve an action other than an action listed in § 103-3B hereof or in Section 617.5 of Title 6 of the New York Codes, Rules and Regulations as a Type II action shall be made by the Town Board or by any department, board, commission, officer or employee of the Town until there has been full compliance with all requirements of this chapter and Part 617 of Title 6 of the New York Codes, Rules and Regulations; provided, however, that nothing herein shall be construed as prohibiting:*

- A. *The conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not commit the Town to approve, commence or engage in such action; or*
- B. *The granting of any part of an application which relates only to technical specifications and requirements,*



*provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this chapter and Part 617 of Title 6 of the New York Codes, Rules and Regulations have been fulfilled. Should multiple Town of Henrietta bodies be involved agencies with respect to an action subject to SEQR, and should those bodies not come to an agreement with regard to lead agency, the Town Board shall determine by resolution which town body, if any, shall be lead agency.*

**§ 103-3. Types of actions.**

- A. *Consistent with Part 617 of Title 6 of the New York Codes, Rules and Regulations and the criteria therein, the following actions, in addition to those listed in Section 617.4 of Title 6 of the New York Codes, Rules and Regulations as Type I actions, are likely to have a significant effect on the environment:*
  - (1) *The construction of shopping centers, industrial centers or other large-scale developments which would have a significant effect on existing drainage patterns and surface water runoff.*
- B. *Consistent with Part 617 of Title 6 of the New York Codes, Rules and Regulations and the criteria therein, the following actions, in addition to those listed in Section 617.5 of Title 6 of the New York Codes, Rules and Regulations as Type II actions, are deemed not to have a significant effect on the environment:*
  - (1) *Cleaning or improving existing drainage channels or creeks by the Town or its approved agent to prevent standing water or potential flooding conditions.*
  - (2) *Roadside or park improvements for the protection or preservation of life, health, property or natural resources.*
  - (3) *Construction of industrial or commercial buildings and/or small-scale subdivisions after receiving approval of appropriate Town boards and other reviewing agencies.*

**§ 103-4. Application fee.**

*Every application for determination under this chapter shall be accompanied by a reasonable fee set forth in a separate fee schedule to be adopted by the Town Board to defray the expenses incurred in rendering such determination.*

**§ 103-5. Preparation of draft environmental impact statement.**

- A. *Following a determination that a proposed action may have a significant effect on the environment, the Town shall, in accordance with the provisions of Part 617 of Title 6 of the New York Codes, Rules and Regulations:*
  - (1) *In the case of an action involving an applicant, immediately notify the applicant of the determination and request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement.*
  - (2) *In the case of an action not involving an applicant, prepare a draft environmental impact statement.*
- B. *If the applicant decides not to submit an environmental impact report, the Town shall prepare or cause to be prepared the draft environmental impact statement or, in its discretion, notify the applicant that the processing of the application will cease and that no approval will be issued. The Town may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement or reviewing the same if it is prepared by the applicant. Such fees shall be determined as follows: an amount equal to the estimated cost to the Town for such activity and/or estimates of time and materials, cost of Town employees and/or consultants hired by the Town for the specific purpose of preparing the draft environmental impact statement.*

## Chapter 119, Fire Prevention

1. Section 119-5, Permits, is amended to add the following Subsection D(32)

(32) *Standby commercial/residential generators.*

(a) *A building permit shall be required to install or locate any standby generator on a residential/commercial parcel, except for portable nonintegrated generators.*

(b) *Generators shall:*

[1] *Be located a minimum of four feet from any property line.*

[2] *Be installed in rear yards or side yards only.*

[3] *Be located a minimum of three feet from any structure or per manufacturer's instructions.*

[4] *Be located on a solid, noncombustible base/pad.*

[5] *Meet all applicable regulations of the New York Uniform Fire Prevention and Building Code.*

[6] *Be installed to comply with the manufacturer's installation and use instructions.*

[7] *Be inspected by a Town of Henrietta approved third-party electrical inspection agency.*

[8] *Comply with all signage regulations as required by the New York Uniform Fire Prevention and Building Code.*

[9] *Have at least one additional sign posted at an approved pedestrian entrance to the home.*

2. Original Section 119-8, Notice of violation, of the 2001 Code, is repealed.
3. Section 119-10A is amended to read as follows: "Failure to comply with any provision of the Uniform Code, this chapter, rules or regulations adopted pursuant to this chapter or a violation order shall be deemed a violation and the violator shall be liable to a fine not to exceed \$1,000, imprisonment not to exceed one year, or both, and each day such violation continues shall constitute a separate violation."
4. Section 119-12E(1)(b) is amended to change "10,000 gallons" to "12,000 gallons."
5. Former § 119-13H, Schedule for compliance, is repealed.
6. Section 119-16 is amended to read as follows:

### **§ 119-16. Modification and appeals.**

- A. *An owner or his agent may apply for a variance with respect to any provision of this chapter to the Henrietta Zoning Board of Appeals, pursuant to that Board's procedures.*
- B. *An owner or his agent may apply to a New York regional board of review in order to seek for a variance or modification with respect to any provision of the New York State Uniform Fire Prevention and Building Code, pursuant to the procedures and fees promulgated by the New York Department of State.*
- C. *The procedures set forth herein for appeals shall not prohibit the Fire Marshal from immediately removing a hazard or ordering the immediate closing of a building or premises until a violation of this chapter or the Uniform Code has been corrected, when such hazard or existence of such violation constitutes, in the opinion of the Fire Marshal, a distinct hazard to life and property or public safety.*

## **Chapter 148, Lawns**

Chapter 148, Lawns, is added to read as follows:

### ***Chapter 148*** ***LAWNS***

#### ***§ 148-1. Requirements for new construction; time frame for compliance.***

*All newly constructed homes are required to have a lawn installed, which shall adhere to the following requirements:*

- A. The minimum thickness of the topsoil shall be six inches throughout the entire lawn area.*
- B. After a certificate of occupancy is issued from the Town, the homeowner, builder or developer shall have a minimum of six months to have the topsoil in place and the lawn seeded. The new home shall have an established lawn no later than 12 months from the issue date of the certificate of occupancy.*

#### ***§ 148-2. Responsible party.***

*The person(s) responsible for installing the lawn in accordance with these regulations shall be identified in writing prior to a building permit being issued. If no one is identified as being responsible, it will automatically be the responsibility of the person(s) named on the required Town of Henrietta building permit.*

#### ***§ 148-3. Backflow prevention devices for irrigation systems.***

- A. A Town of Henrietta building permit is required for all lawn irrigation systems to assure that they are not mistakenly installed within the Town, county or state right-of-way.*
- B. Monroe County Water Authority and Monroe County Department of Health approvals are required for the backflow prevention device mandated for all lawn irrigation systems.*

#### ***§ 148-4. Scope of coverage.***

*Except for the building structure/driveway area, all remaining lot areas of the parcel shall be lawn following all requirements in this code. Any relief from this § 148-4 must be approved in writing by the Town of Henrietta Engineering Department in advance of installation of the lawn.*

#### ***§ 148-5. Enforcement.***

*Approval and enforcement of the above provisions shall be the responsibility of the Town of Henrietta Engineering Department.*

## **Chapter 150, Lighting**

Chapter 150 is added to read as follows:

### ***Chapter 150*** ***LIGHTING***

#### ***§ 150-1. Commercial or industrial properties.***

*The Town of Henrietta requires "white light," including but not limited to metal halide, plasma, LED, and similar, for all exterior lighting on new commercial or industrial applications. Metal halide is the standard for all new construction. New construction that is on a parcel which contains or shares a boundary line with existing commercial or industrial uses that are using high-pressure sodium lighting are permitted to use high-pressure sodium lighting for consistency of application and visual consistency.*

**§ 150-2. Residential properties.**

- A. *A property owner, occupant or resident is prohibited from allowing exterior lighting to directly shine onto any neighboring property so as to become a nuisance or to disrupt the peace and/or repose of the neighborhood.*
- B. *The light spillage on an adjacent property shall be less than 1.0 footcandle.*
- C. *The maximum height of a pole-mounted light fixture or a building-mounted light fixture shall be 20 feet.*
- D. *All exterior residential lighting, whether in operation prior to or after the adoption of this chapter, shall comply with these provisions.*

**Chapter 168, Noise**

- 1. Section 168-2B(4) is amended to change “10:00 p.m. to 8:00 a.m.” to “9:00 p.m. to 7:00 a.m.”
- 2. Section 168-2B(5) is added as follows: “Permitting or maintaining any animal which frequently or for continued duration makes sounds which create an unreasonable noise across a residential real property boundary.”
- 3. Section 168-5 is amended to read as follows: “This chapter may be enforced by the designated Town Code Enforcement Officer or members of the Monroe County Sheriff's Department, state police or other peace officers, in connection with their duties imposed by law.”

**Chapter 176, Officers and Employees**

Article III, Town Attorney, § 176-4, is amended to read as follows: “Notwithstanding the provisions of Subdivision 1 of § 23 of the Town Law of the State of New York, in the Town of Henrietta, Monroe County, the person performing the functions of Town Attorney need not be an elector of such Town., but must be a resident of Monroe County.”

**Chapter 183, Parking**

Article I, Emergencies

- 1. Section 183-3 is amended to read as follows: “Any vehicle found standing, parked or left on a highway in violation of this article shall be removed and stored by the Town in accordance with Article IV, Removal and Storage of Abandoned or Illegally Parked Vehicles, of Chapter 273, Vehicles and Traffic, of the Code of the Town of Henrietta.”
- 2. Section 183-4 is amended to read as follows: “Whether or not an emergency exists or has been proclaimed, whenever any vehicle is found unattended or parked on any highway within the Town of Henrietta in such a position as to obstruct traffic or to interfere with snow removal operations being carried out by the Town, such vehicle shall be subject to removal as set forth in Article IV, Removal and Storage of Abandoned or Illegally Parked Vehicles, of Chapter 273, Vehicles and Traffic, of the Code of the Town of Henrietta.”

Article II, Winter Parking

- 1. In § 183-7, the definition of “highway” is amended to read as follows: “HIGHWAY —The entire width between the boundary lines of all highways, every publicly maintained way that is open to the use of the public for purposes of vehicular and pedestrian traffic.”

2. Section 183-8 is amended to read as follows:

**§ 183-8. *Parking restrictions.***

- A. *The parking of vehicles is hereby prohibited on all public streets, highways or roadways within the Town of Henrietta between 2:00 a.m. and 9:00 a.m. from November 1 to April 1 of each year.*
  - B. *When deemed advisable in the interest of public safety, including snow removal, the Town Supervisor or Highway Superintendent may prohibit parking and stopping as necessary, and all pedestrians and drivers of vehicles shall comply with those regulations.*
3. Section 183-9, Removal of vehicles, is amended to read as follows: “Any vehicle found standing, parked or left on a highway in violation of this article shall be removed and stored by the Town in accordance with Article IV, Removal and Storage of Abandoned or Illegally Parked Vehicles, of Chapter 273, Vehicles and Traffic, of the Code of the Town of Henrietta.”
  4. Original § 183-10 of the 2001 Town Code, Notice of removal, is repealed.

## **Chapter 192, Peddling, Vending and Soliciting**

1. Section 192-5, Exceptions, is amended to add the following Subsection A(11): “Any honorably discharged member of the armed forces or any other person who has procured a license issued by the County Clerk as provided by § 32 of the General Business Law of the State of New York.”
2. Section 192-11 is added as follows:

**§ 192-11. *Cart vendors.***

- A. *Vendors requesting to operate a cart service in the Town of Henrietta must submit a permit application prior to commencing service. The application must be accompanied by:*
  - (1) *If food service is involved, a New York State Department of Health license issued to allow the specific type of vending requested.*
  - (2) *A New York State sales tax certificate, which must be prominently displayed on the vendor's cart.*
  - (3) *A certificate of liability insurance adequately insuring the Town or the owner of the property on which the vendor's cart is located.*
  - (4) *A fee in an amount set from time to time by resolution of the Town Board.*
- B. *Upon approval of a permit application, the Town will provide the applicant with the location of designated areas in which the vendor may operate. Any other requested area must receive prior approval after Town review.*
- C. *The permit must be prominently displayed on the vendor's cart.*

## **Chapter 198, Plumbing and Electrical**

1. Chapter 198 is amended to change all references to “plumbing” to “plumbing/electrical”; and to change all references to “plumbers” to “plumbers/electricians.”
2. Section 198-3 is amended to add a reference to licenses issued by the Electrical Examining Board of the City of Rochester, New York.
3. Section 198-15 is amended to add the following definition: “ELECTRICAL SYSTEM — All materials, devices or appliances located for the purpose of conducting or safeguarding electrical current.”

## Chapter 205, Property Maintenance

1. Section 205-3 is amended to add the following definitions:

*COMPOSTING* — The process through which organic materials, such as grass and leaves, are reduced to humus through organic activity for use as a soil amendment, fertilizer or mulch.

*COMPOST PILE* — A mixture of decaying organic matter consisting of grass clippings, leaves, and brush when placed in an area to encourage rapid conversion of the constituents into nutrient material used for fertilizing and conditioning land.

2. Section 205-5A is amended to add the following sentence: “No drainage shall directly discharge onto any neighboring property.”
3. Section 205-5C is amended as follows: “Steps, walks, driveways, parking spaces, private roadways and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacement carried out.”
4. Section 205-5E is amended to read as follows: “Heavy undergrowth and accumulation of plant growth which is noxious or detrimental to health shall be eliminated. Ground cover, including grass lawns, shall not exceed six inches in height.”
5. Section 205-9D is amended to add the following sentence: “Doors to dumpster enclosures shall remain closed when the dumpster is not in the process of being emptied.”
6. Sections 205-10 and 205-11 are added as follows:

### **§ 205-10. Motor vehicle repair or service stations.**

- A. No motor vehicle repair or service station shall openly store or cause to be stored any vehicle which is not actively being repaired or serviced nor any unregistered/unlicensed vehicles for more than three days. An exception may be made when adequate documentation is provided to a code official verifying the need to store a particular vehicle(s), including, but not limited to, a valid or current mechanic's lien, service contract or similar documentation.
- B. Any vehicle that is determined by a code official to be stored in violation of this section shall be removed from the property.
- C. This section shall immediately apply to all motor vehicle repair and service stations upon adoption.

### **§ 205-11. Composting.**

- A. Composting shall be allowed in residential districts only.
- B. Compost piles/areas may be no larger than eight feet long by eight feet wide and four feet high.
- C. Compost piles/areas shall be a minimum of 10 feet from any property line.
- D. Compost piles/areas shall be contained on at least three sides with brick, block, wire fencing, store-bought bins, or a similar method of containment. For those containment areas with three sides, the open side must face the property on which the compost is located.
- E. Compost piles shall be maintained so as to prevent unpleasant odors from becoming a nuisance to neighbors.
- F. Compost piles may not contain any of the following items:
  - (1) Any household items that contain meat, fish, bones, fatty foods, grease, oils, lard, etc.
  - (2) Animal wastes, including feces, cat litter or any animal matter or carcasses.

- (3) *Coal ash.*
- (4) *Dairy products such as butter, yolks, milk, yogurt, etc.*
- (5) *Any item or material not recommended for composting by county, state or federal agencies.*

7. Section 205-12 is amended to read as follows:

**§ 205-12. Responsibilities of occupants.**

*An occupant of the premises shall be responsible for compliance with this chapter in regard to the following:*

- A. *Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.*
- B. *Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities, in that part of the premises which he occupies or controls, in a clean and sanitary condition and providing reasonable care in the operation and use thereof.*
- C. *Keeping exits from his building clear and unencumbered.*
- D. *Disposal of garbage and refuse into provided facilities in a clean and sanitary manner in accordance with the provisions of the Town.*
- E. *The installation and removal of required screens.*
- F. *Keeping his domestic animals and pets in an appropriate manner and under control.*
- G. *Elimination of all prohibited uses for that part of the premises which he occupies, controls or has accessibility thereto.*

8. Section 205-13, Responsibilities of owners, is amended to add the following subsections:

- D. *Owners and operators shall be responsible for the extermination of insects, rodents or other pests within their premises.*
- E. *Owners and operators shall be responsible for the maintenance of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation.*

9. Section 205-14 is amended to read as follows: “A violation of this chapter or any section or provision thereof shall be an offense and shall be punishable, upon conviction thereof, by a maximum fine of \$1,000, imprisonment not to exceed one year, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation. These penalties shall be in addition to the other remedies of the Town Board provided by this chapter.”

## **Chapter 212, Records**

1. Section 212-6 is amended to read as follows:

**§ 212-6. Requests for public access to records.**

- A. *A written request is required.*
- B. *A request shall reasonably describe the records sought. Wherever reasonably possible, the request shall identify relevant dates, file designations, or any other information that may assist in responding to the request.*

C. *If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.*

D. *Time frame for response.*

(1) *A response shall be given within five business days of receipt of a request by:*

(a) *Informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;*

(b) *Granting or denying access to records in whole or in part;*

(c) *Acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than 20 business days after the date of the acknowledgment; or if it is known that circumstances prevent disclosure within 20 business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or*

(d) *If the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within 20 business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within 20 business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.*

(2) *In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the Town, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.*

2. The following sentence is added to § 212-8D: “Any person denied access to records may appeal within 30 days of denial.”

3. Section 212-9 is amended to read as follows:

**§ 212-9. Fees; redaction.**

A. *There shall be no fees charged for:*

(1) *Inspection of records.*

(2) *Search for records.*

(3) *Any certification pursuant to this article.*

B. *Fees for photocopies.*



- (1) *The fee for copies not exceeding nine inches by 14 inches made on the Town Clerk's copy machine is \$0.25 per page.*
  - (2) *The fee for copies of records other than photocopies which are nine by 14 inches or less in size shall be the actual copying cost excluding fixed agency costs, such as salaries.*
- C. *The Town has the authority to redact portions of a record prior to making a copy of such record, in accordance with New York law.*
- D. *The Town may charge a fee for a copy of any other record, based upon the actual cost of reproduction, and may include the following:*
  - (1) *An amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill to prepare a copy of the requested record, but only when more than two hours of the employee's time are necessary; and*
  - (2) *The actual cost of storage devices or media provided to the person making the request; and*
  - (3) *The actual cost to the Town of engaging an outside professional service to respond to a request, but only when the Town's equipment is inadequate to respond, and only when such service is used to prepare the copy.*
- E. *When the Town has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee time than engaging in manual retrieval or redactions from nonelectronic records, the Town shall be required to retrieve or extract such record or data electronically. In such case, the Town may charge a fee in accordance with Subsection D(1) and (2) above.*
- F. *The Town shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of a Town employee's time are needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.*
- G. *The Town may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.*

## **Chapter 219, Sewers**

1. Section 219-1 is amended to read as follows: "Pursuant to the authority of the Sewer Rent Law of the State of New York (Chapter 765 of the Laws of 1951), and any and all amendments thereto, there are hereby established and imposed sewer rents as a means of producing revenue for Henrietta Sewer District No. 1 and its extensions in the Town of Henrietta.
2. The definition of "sewer rents" in § 219-2 is amended to read as follows: "A scale of annual charges for residential property, and quarterly charges for nonresidential property, established and imposed in Henrietta Sewer District No. 1 and its extensions in the Town of Henrietta for the use of the sewer system or any part or parts thereof."
3. The definition of "sewer system" in § 219-2 is amended to read as follows: "All sewer pipes and other appurtenances which are used or useful in whole or in part in connection with the collection, treatment or disposal of sewage, industrial waste and other wastes and which are owned, operated or maintained by Henrietta Sewer District No. 1 and its extensions in the Town of Henrietta, including sewage pumping stations and sewage treatment and disposal works and private on-site wastewater disposal systems, if any."

4. In § 219-10, Definitions; word usage, the definition of “Superintendent” is amended to change “Commissioner of Public Works” to “Director of Engineering and Planning.”
5. Section 219-12J is amended to read as follows: “No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town Board and any industrial, commercial or other owner from whose premises an industrial-commercial or domestic waste emanates which is of unusual strength or character from being accepted by the Monroe County Division of Pure Water for treatment subject to payment therefor by such owner.”
6. Section 219-13 is added as follows:  
**§ 219-13. Residential manhole covers.**
  - A. *All manhole covers in the Town of Henrietta are located in the right-of-way (row) and/or filed easements. Therefore, residents shall not be allowed to install landscaping, grass, or berms over any sanitary or storm manhole cover.*
  - B. *It shall be the homeowner’s responsibility to remove any and all coverings to manholes listed in Subsection A immediately or upon notification by the Town of Henrietta Code Enforcement Department.*
  - C. *If a covered manhole is not cleared after two written notifications by the Town of Henrietta Code Enforcement Department, the Town of Henrietta shall have the right to perform the work necessary to uncover the manhole and bill the homeowner for the costs incurred.*
7. Section 219-15 is added as follows:  
**§ 219-15. Ownership and maintenance of sewer laterals.**
  - A. *The property owner shall be responsible for any maintenance or repair of that portion of the sanitary lateral that he/she owns.*
  - B. *Further, the portion that the property owner is responsible for shall be any sewer infrastructure not otherwise located in a Town easement and/or any Town, county or New York State right-of-way, including sewer infrastructure located between any structure on private property and the right-of-way or easement.*
  - C. *The Town shall be responsible for the portion of sanitary lateral located from the sanitary sewer to the edge of the easement and/or right-of-way located on the homeowner’s property.*
  - D. *In the event of a blocked sanitary lateral and the absence of an existing cleanout, the property owner shall be required to have a cleanout installed prior to any repair work by the Town. The cleanout shall be located at the junction of the existing easement or Town right-of-way and the owner’s property.*
  - E. *All repairs to any sanitary laterals in the Town of Henrietta must be made with PVC SDR-21.*
8. Section 219-19 is amended to change “Commissioner of Public Works” to “Director of Engineering and Planning.”

## Chapter 224, Signs

1. Section 224-2A is amended to add and/or amend the following definitions:

*BUSINESS SIGN – A sign which directs attention to a business or profession conducted, including products or services, etc., offered by or related to such business or profession.*

*CONSTRUCTION SIGN – A temporary sign erected on the premises on which the construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors and similar artisans and the owners, financial supporters, sponsors and similar persons or firms having a role or interest with respect to the structure or project. Such sign may exist for a period no greater than one year, unless an extension is granted by the Code Enforcement Officer after confirming that construction is still ongoing.*

*ILLUMINATED SIGN — Any sign that is illuminated with various forms of light, including, but not limited to, any form of lightbulb, LED, LCD, HDTV or any other form of lighted illumination.*

*NON-BUSINESS MESSAGE SIGN – A noncommercial advertising sign expressing the position, opinion or philosophy of the owner or occupant at the subject property regarding political, religious, social or economic causes or to announce a coming special event or activity.*

*OFF-SITE BUSINESS SIGN – A sign, including billboards, which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.*

*REAL ESTATE SIGN – A temporary sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located, which may exist for as long as the premises is up for sale or lease, excluding, however, "sold by" signs.*

*TEMPORARY SIGN — Any sign (movable or stationary) which has not been approved as a permanent sign and which promotes either an event that occurs at a specified time or a state or event that exists only for a temporary period of time. Such signs may be posted for the period of the event and the preceding 30 days, but may never be posted for a continuous period of greater than 60 days, unless otherwise specified herein. A temporary sign must be removed within 48 hours of the end of the subject event or state.*

(The former definition of “political sign” is repealed.)

2. The definition of “ground sign” in § 224-2B is amended to read as follows: “GROUND SIGN – Any sign, other than a pole sign, placed upon or supported by the ground, independent of any other structure, including a monument sign.”
3. Section 224-4, Use, height and design of signs, is amended to add the following Subsection E: “All A-frame, sandwich board and/or push-in signs are prohibited within the Town of Henrietta.”
4. Section 224-8A(5) is amended to change “nonilluminated sign” to “nonilluminated real estate sign.”
5. Section 224-8A(6) is amended to change “temporary signs used in connection with the sale, rental or improvement of real property” to “temporary real estate signs in connection with the sale, rental or improvement of real property.”
6. Section 224-8A(11) is amended to read as follows:

(11) *Non-business message signs and temporary non-business message signs.*

(a) *Non-business message signs and temporary non-business message signs not otherwise addressed in this Subsection A shall be nonilluminated signs which shall not exceed six square feet in area, shall not be closer than 20 feet to any lot line and shall not project*

*more than six feet in height above grade.*

- (b) *Non-business message signs and non-business temporary message signs, including political signs, shall be permitted, subject to the following requirements:*

- [1] They shall not, in the aggregate, number more than three per tax account number lot.*
- [2] The owner or occupant of the property on which such signs are to be posted shall consent to the erection of such signs and shall be responsible for their removal.*
- [3] Such signs shall not require a permit, but signs erected on vacant land shall be registered with the Town by the owner of the property in person or by mail. Said registration is solely to assure the property owner's knowledge of the existence of said sign(s).*
- [4] Such signs shall not be affixed to fences, trees, utility poles, bridges or traffic signs and shall in no way obstruct or impair vision or traffic in any manner or create a hazard or disturbance to the health and welfare of the general public.*
- [5] Such signs shall not be located within rights-of-way of public streets.*
- [6] Political signs advertising candidates for an upcoming election are temporary message signs, where the "event" advertised involves an election. In the case that the sign is related to a primary race, said sign may be displayed between the end of the primary and the end of the general election (i.e., the primary and the general election shall be considered one event). As set forth above, temporary signs must be removed within 48 hours of the end of the subject event or state.*

- 7. Section 224-8B(1) is amended to read as follows: "Upon obtaining a permit, each separate commercial or industrial enterprise shall be permitted to erect (a) a simple wall sign attached to the front of the building, or a roof sign, and (b) one of either a pole sign or a ground sign, subject to the following regulations: . . ."
- 8. Section 224-8B(1)(d) is amended to change "pole sign" to "pole or ground sign."
- 9. Section 224-8B(2) is amended to read as follows: "Shopping plaza signs. In shopping plazas, each individual store or other enterprise shall be permitted to have one wall or roof sign of the type permitted under Subsection B(1). The design and style of such individual signs shall be coordinated so as to create aesthetic uniformity within the plaza. In addition, the shopping plaza may erect a single pole sign advertising the name of the shopping plaza. A plaza pole sign used as a directory which lists the tenants of the plaza is an appropriate use. These permitted plaza pole signs do not count as part of the signage permitted by Subsection B(1) above. Such signs shall be erected only after a special permit therefor shall have been obtained from the Zoning Board of Appeals. (For size, see Table 2.) With the approval of the plaza property owner, in lieu of a pole sign advertising the plaza, an individual tenant may erect a pole sign. Only one pole sign in total will be permitted for the shopping plaza."
- 10. The following Subsection B(6) is added to § 224-8:

(6) *Illuminated signs.*

- (a) Illuminated signs are only allowed in nonresidential zoning districts.*
- (b) Illuminated signs must comply with the Town of Henrietta Code regulations regarding nonilluminated signs, including but not limited to size, height and location.*
- (c) Illuminated signs shall have no flashing, scrolling or other animation in the message.*
- (d) Illuminated signs may not change message content more than once per hour.*

(e) *Building-mounted illuminated signs may not change their messages at any time.*

11. Section 224-8B(7) is amended to change “temporary signs” to “temporary business signs.”

12. Section 224-8B(8) is amended to read as follows: “A temporary non-business sign or a message sign is permitted under the same conditions as detailed in Subsection A(11)(b)[1] through [6].”

13. Section 224-13 is added as follows:

**§ 224-13. *Electronic reader board signs.***

*An electronic reader board sign is an illuminated sign with a changeable message. Electronic reader board signs are permitted in the Town of Henrietta subject to the following restrictions:*

- A. *They are only permitted in commercial/retail districts. They are not permitted in residential districts.*
- B. *They shall be erected perpendicular to the street. They shall not be mounted on any building.*
- C. *They shall only be permitted on pole or monument signs.*
- D. *They shall have no flashing, scrolling or other animation in displayed messages.*
- E. *They are limited in content changes to one change every hour.*
- F. *They may be in operation only from one hour before opening to one hour after closing of the commercial/retail business to which the sign relates.*
- G. *They may be permitted for plaza directory sign purposes.*

## **Chapter 227, Smoking**

Chapter 227 is amended in its entirety to read as follows:

### ***Chapter 227 SMOKING***

**§ 227-1. *Restrictions.***

*The Town of Henrietta hereby adopts restrictions on smoking in Town facilities in accordance with state regulations on smoking in public areas found in Public Health Law Article 13-E, § 1399-n et seq., as amended.*

**§ 227-2. *Employee concerns or complaints.***

*Employees are encouraged to present any concerns to their supervisor and may register a complaint with the county enforcement officer.*

**§ 227-3. *Penalties for offenses.***

*Employees found smoking outside of designated smoking areas will be considered in violation of this policy and may be subject to the penalty prescribed by the State Commissioner of Health.*

## **Chapter 230, Snowmobiles**

1. Section 230-5 is amended to read as follows: “No snowmobile shall be operated on any lands owned or occupied by a governmental agency or privately owned except with the permission of any such owner, or as otherwise permitted by this chapter.”
2. Section 230-7, Highway operation rules, Subsection D(2), is amended to read as follows: “Operators of snowmobiles on designated Town highways must be at least 18 years of age or as stated in Parks, Recreation and Historic Preservation Law § 25.19.”
3. Section 230-9 is amended to read as follows: “In addition to any penalty contained in any other provision of law, any person who shall violate any provisions of this chapter shall be guilty of a violation and shall be punished by a fine of not less than \$50 nor more than \$250, 15 days' imprisonment, or both.”

## **Chapter 234, Solid Waste**

1. Section 234-10, Bond, is amended to change \$5,000 to \$25,000.
2. Part 3, Construction Debris, is added as follows:

### ***Part 3 Construction Debris***

#### ***ARTICLE VI Temporary Dumpsters and Containers***

##### ***§ 234-23. Disposal of construction debris.***

*All waste material from any construction project (commercial or residential) shall be disposed of in a timely and safe manner. When hazardous materials are involved, the disposal shall be in accordance with all state and federal laws, statutes, and/or local regulations.*

##### ***§ 234-24. Accumulation of waste prohibited.***

*All waste and/or hazardous materials shall be contained in a proper dumpster/container or within the structure. It shall not be left to accumulate on the site.*

##### ***§ 234-25. Removal of waste.***

*Once a dumpster is full, it shall be emptied within seven days. If an appropriate dumpster/container is not provided on site, the contractor/owner will remove the waste on a daily basis.*

##### ***§ 234-26. Responsibility for compliance.***

*The person(s) responsible for making sure there is an appropriate dumpster/container or other means to collect debris on site is the person(s) who applied for the required building permit.*

## **Chapter 236, Stormwater Management**

In § 236-2, the definition of “stormwater management officer” is amended to change “employee or officer” to “The Director of Engineering and Planning or an employee or officer.”

## **Chapter 240, Streets, Sidewalks and Driveways**

1. The lead-in sentence to § 240-3 is amended to add “construction” as follows: “The standard driveway construction, entrance and exit crossing requirements shall be as follows: . . .”
2. Section 240-3I is amended to read as follows: “Any culvert pipe required to be installed at such driveway entrance or exit shall be of smooth-interior corrugated plastic pipe, reinforced concrete pipe or corrugated metal pipe no smaller than 12 inches in diameter and no shorter than 26 feet in length.”
3. Section 240-3K(2) is added to read as follows: “Extension of a driveway past the right-of-way shall be limited to 24 feet wide continuing up to the structure.”
4. Section 240-9 is added as follows:

### **§ 240-9. Indexed record to be maintained.**

*All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.*

5. Article IV is adopted as follows:

## **ARTICLE IV Deposits of Snow and Ice**

### **§ 240-15. Deposit on public way prohibited.**

- A. *It shall be unlawful for any person to use or cause to be used a public street, right-of-way or any sidewalk for the deposit, piling, or placement of plowed or shoveled snow or ice.*
- B. *Notwithstanding these provisions contained herein, nothing shall prohibit any person from utilizing the streets, sidewalks or rights-of-way of the Town of Henrietta for temporary deposit, piling, or placement of snow or ice in connection with removal activities actually under way.*

### **§ 240-16. Penalties for offenses.**

*Any person, firm or corporation who or which violates the provisions of this article shall be guilty of an offense and, upon conviction thereof, shall be fined in an amount not to exceed \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation.*

## **Chapter 245, Subdivision of Land**

Section 245-9 is added as follows:

### **§ 245-9. Penalties for offenses.**

*A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.*

## Chapter 257, Trailers

1. Section 257-1 is amended to add the following definition: “MOVABLE/PORTABLE STORAGE UNITS — A storage unit that is temporary and is a transportable unit designed and used primarily for temporary storage of building materials (before they are utilized for building purposes), household goods, and other such materials for use on a limited basis on residential property. Sometimes referred to as "PODS" and "roll-offs.”
2. The following Subsections (1) through (4) are added to § 257-3B:
  - (1) *Storage trailer or container permits shall be valid for six months.*
  - (2) *Storage trailer or container locations shall be approved by the Fire Marshal/Building Inspector prior to placement of the storage trailer or container.*
  - (3) *Storage trailers or containers shall not be used to store any hazardous materials or chemicals.*
  - (4) *Storage trailers or containers shall not be used as a means to advertise business activities of any kind.*

3. Section 257-4 is added as follows:

### **§ 257-4. Movable/Portable storage units.**

*This section applies to movable/portable storage units on nonconstruction sites and all residential properties.*

- A. *Movable/Portable storage units may be on the property for no more than 30 consecutive calendar days for the purpose of loading or unloading the storage unit.*
- B. *After 30 days, a permit must be obtained from the Town of Henrietta Building Department allowing the portable unit to remain for no longer than 90 days.*

## Chapter 261, Trees

1. Throughout this chapter, “Municipal Arborist” is changed to “Municipal Arborist or Supervisor’s designee.”
2. The lead-in paragraph to § 261-6 is revised to change “trees” to “trees or vegetative growth.”
3. Section 261-11 is added as follows:

### **§ 261-11. Landscaping for new subdivisions.**

- A. *For any proposed subdivision, the developer will be required to furnish and install two street trees per lot. Any deviation from the requirement of two street trees per lot will require approval from the Planning Board. This requirement shall not apply to multiple-family dwellings or to cluster developments approved under Town Law § 278.*
  - B. *Upon completion and acceptance of the landscaping, a two-year maintenance agreement will be required of the Town of Henrietta. The maintenance guarantee will be for two years from the date of final acceptance of each section of the subdivision.*
4. Section 261-12 is revised to increase the penalty amount to a minimum of \$250 up to a maximum of \$1,000, and to increase the term of imprisonment to not to exceed one year.



## **Chapter 273, Vehicles and Traffic**

1. Original § 273-12 of the 2001 Town Code, Littering from a motor vehicle, is repealed.
2. Section 273-12, Penalties for offenses, is amended to delete former Subsection C, imposing penalties for violations with respect to littering.

## **Chapter 277, Vehicles, Motor-Driven**

Section 277-6C is amended to increase the penalty to \$150.

## **Chapter 295, Zoning**

1. In § 295-2, the definition of “flag lot” is amended to read as follows:

*FLAG LOT — A lot with access provided to the bulk of the lot by means of a narrow corridor. The front lot line of a flag lot shall be the longest interior lot line which is closest to and parallel to the right-of-way which provides access to the lot, other than the line which actually adjoins the right-of-way.*

2. In § 295-2, the definition of “lot, corner” is amended to read as follows:

*LOT, CORNER — A parcel of land at the junction of and fronting on two or more intersecting streets. Corner lots have at least two front lot lines, those lot lines fronting on each right-of-way. The rear lot line shall be that line opposite the front lot line which provides access via the driveway. The remaining lot line shall be the side setback line.*

3. In § 295-2, the definition of “parking space” is revised to change the size from “10 feet wide and 20 feet long” to “nine feet wide and 18 feet long.”
4. A definition of “setback” is added to § 295-2 as follows:

*SETBACK — The shortest distance from a lot line of a lot to the exterior of any building located or to be located thereon.*

5. In § 295-2, Subsection (3) of the definition of “storage shed” is amended to change “150 square feet” to “192 square feet.”
  6. In § 295-2, the definition of “swimming pool (outdoor)” is amended to read as follows:
- SWIMMING POOL (OUTDOOR) — Any structure intended for swimming or recreational bathing capable of containing water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs, spas, and retention or decorative ponds.*
7. In § 295-2, the definition of “yard, front” is amended to change “street” to “right-of-way.”
  8. Section 295-4 is amended as follows: “The areas of the foregoing districts are bounded and defined as shown on the map entitled the "Official Zoning Map of the Town of Henrietta," which map, with all explanatory matter thereon annexed, is hereby made a part of this chapter, to be duly certified as such by the Town Clerk and posted and filed according to law. Descriptions of the land use districts are on file in the Town offices.”
  9. Section 295-7A(5) is amended to read as follows:

- (5) *Private garages. Attached or detached garage buildings for not more than three motor vehicles with maximum dimensions of 35 feet on the entrance side by 30 feet. R-1-20 Districts shall have at least a two-car private garage; R-1-15 Districts shall have at least a one-car private garage. RR-1 and RR-2 Districts shall have a minimum one-car private garage. There shall not be more*

*than one attached or detached garage per parcel/lot in any residential district. The minimum dimensions for private residential garages shall be as follows:*

<b><i>Maximum Capacity</i></b>	<b><i>Minimum Depth/Length (feet)</i></b>	<b><i>Minimum Width (feet)</i></b>
<i>1 car</i>	<i>20</i>	<i>12</i>
<i>2 cars</i>	<i>20</i>	<i>20</i>
<i>3 cars</i>	<i>20</i>	<i>30</i>

10. Section 295-7A(9) is amended to read as follows: “Storage sheds, provided that each shall have a minimum side setback and rear setback of four feet, and shall not infringe on any easements. Notwithstanding the foregoing, no storage shed shall be erected within the required side yard on the street side of a corner lot, as referred to at § 295-10B(2).”
11. Section 295-7C is added as follows: “Any use not specifically enumerated in this section as a permitted use is prohibited in the R Residential Districts.”
12. Section 295-10C is amended as follows: “Side yard setbacks. Side setbacks are based on lot width and may not be less than eight feet, nor may side setbacks impermissibly infringe on an easement.”
13. Section 295-10.1D is amended as follows: “Preexisting (vacant) tax parcels that were approved building lots but would now be substandard in RR Districts are subject to the zoning standards that were in effect for those lots prior to July 1, 2005.”
14. Original § 295-9.1F of the 2001 Town Code, Open space incentive option, is repealed.
15. Section 295-10.1D is amended to change “Preexisting (vacant) tax parcels” to “Preexisting (undeveloped) tax parcels.”
16. Section 295-11A is amended to add the following entry:

<b><i>Dwelling Type</i></b>	<b><i>R-1-20 District</i></b>	<b><i>R-1-15 and RR Districts</i></b>	<b><i>R-2-15 District</i></b>
<i>One-and one-half- story B (“Cape Code”)</i>			
<i>First floor</i>	<i>1,200</i>	<i>850</i>	<i>672</i>
<i>Second floor</i>	<i>The habitable area shall be less than 2/3 the area of the first floor.</i>		

17. Section 295-14A is amended as follows: “Except as hereinafter limited or prohibited, the following uses are permitted in B-1 Commercial Districts. The uses permitted under Subsection A(1), (2), (3), (4), (5), (7), (8), (9) and (10) are permitted to be carried on only within a building. If a material part of said business is to be carried on out of doors, the user shall first obtain a special permit from the Town Board after a public hearing as provided in Article XII of this chapter. A special permit shall be required to locate two or more buildings with separate entrances on the same lot.”
18. Section 295-14A is amended to delete “aircraft dealers” and “private heliports” (and accompanying regulations) from the list of uses permitted in B-1 Districts.

19. Section 295-14C is added as follows:

*C. Buffer zones.*

- (1) When any new building, addition to an existing building or structure is proposed to be erected on any land in this district which abuts any property zoned residential, before any building permit may be issued, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, a site plan showing a minimum of a fifty-foot buffer zone on the applicant's property along the boundary of the applicant's property and any property zoned residential.*
- (2) The intent of the buffer zone is to provide for a visual and, where appropriate, a sound buffer between the residential property and the applicant's property. The Planning Board may require the applicant to landscape such area and construct berms, fences or other appropriate barriers to provide for such buffer. The applicant, prior to commencing any construction on the site, shall post with the Town of Henrietta a letter of credit or other security in a form acceptable to the Town in an amount sufficient to insure the installation of such materials and plantings as the Planning Board determines necessary. In the case of any landscape material, the applicant shall provide a maintenance guaranty in a form acceptable to the Town in addition to the security or letter of credit set out above for the replacement of any landscaping material that dies within the first two years of planting of said materials.*
- (3) The applicant, in its submission to the Planning Board, shall provide the Planning Board and the Engineering Department of the Town of Henrietta with such plans as are necessary to show the natural and established flow of surface water and the anticipated flow of water after construction and, where necessary, shall provide for, at the applicant's cost, the installation of swales, catch basins, storm drains, detention or retention ponds and such other methods of controlling the surface water as deemed necessary by the Planning Board and the Engineering Department.*
- (4) The maintenance of the buffer zone shall be the responsibility of the owner of the property, and failure to maintain the buffer zone shall be subject to enforcement by issuance of an appearance ticket provided under Chapter 25, Appearance Tickets, of the Code of the Town of Henrietta.*

20. Section 295-15K is amended to change “between Calkins Road and Jefferson Road” to “between Calkins Road and Lehigh Station Road.”

21. Section 295-15L is added as follows: “Any use not otherwise enumerated herein as permitted in a B-1 District.”

22. Section 295-16B(19) is added as follows: “Any use not otherwise enumerated herein as permitted in a B-2 District.”

23. Section 295-17A is amended to read as follows: “As a condition to the issuance of a permit for any commercial use in commercial districts, the owner shall construct a mall at least 20 feet in width, measured at right angles to the highway, immediately adjacent to the highway on which the lands to be used commercially abut, along the entire frontage of the owner's property. Such mall shall have structures at least one foot high, one on each side of said mall, to prevent vehicles from driving over the mall. The owner shall plant such mall with grass or other plants for ground cover and shall, if required by the Planning Board, plant trees thereon. A maximum of 25% of the frontage may be excluded from the mall for private access drives.”

24. Section 295-22D is added as follows: “Any use not otherwise specified herein as permitted in an ILCD District.”

25. Section 295-25A is amended to delete “photographic and camera manufacturing or assembly” and “photographic supplies manufacturing or assembly” from the list of uses permitted in I Industrial Districts.
26. Section 295-26D is added as follows: “Any use not otherwise specified herein as permitted in an I District.”
27. Section 295-28C is amended as follows: “Rear yard depth shall be 60 feet. This provision is for the purpose of establishing suitable loading and unloading areas and of providing suitable off-street parking areas. Rear yards may be reduced, by Planning Board approval, to 30 feet if no loading or unloading occurs in this area.”
28. Section 295-40D is amended as follows: “Approval or disapproval. A project that has received Town Board approval will be issued a demolition permit.”
29. Section 295-41A is amended as follows: “Fences shall be of permanent construction, such as ornamental iron or pickets (iron or wood), and shall not exceed three feet in height if erected in the front yard. Fences erected elsewhere on the lot shall not exceed six feet zero inches.”
30. The following subsections are added to § 295-41:
  - F. *Fences shall not be placed within any municipal easement.*
  - G. *Fences shall be placed a minimum of 12 inches inside of the subject property line.*
  - H. *Replacement. Any fence that is replaced after [insert date of adoption of amendment] shall be subject to these requirements.*
  - I. *Placement of a fence is the sole responsibility of the property owner.*
31. Section 295-42C is amended as follows: “Dogs and cats are exempt from these provisions, provided there are not more than three of such animals, unless application is made to and a special permit is granted by the Town Board to harbor or kennel dogs and cats as foster care or rescued animals.”
32. Section 295-44A is amended as follows:
  - A. *The following parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building hereafter erected, enlarged or altered for use for any of the following purposes: Editor's Note: Amendments pending adoption.*

<i>Use</i>	<i>Minimum Number of Parking Spaces Required</i>
<i>Animal hospital or "doggie day care"</i>	<i>1 per 200 square feet of floor area, with a maximum of 10</i>
<i>Auto repair or service facility</i>	<i>1 per 400 square feet of floor area</i>
<i>Banking facility, with drive-through</i>	<i>1 per 155 square feet of floor area</i>
<i>Convenience store</i>	<i>1 per 200 square feet of floor area or 10 maximum, not including cars parked at gas pumps</i>
<i>Day-care facility</i>	<i>1 per 5 enrolled children</i>
<i>Dwelling</i>	<i>2 1/2 for each dwelling unit in the building or buildings</i>

<i>Funeral home</i>	<i>1 per 50 square feet of floor area</i>
<i>Garden nurseries, exterior</i>	<i>5 per acre of outdoor display area</i>
<i>Hospital</i>	<i>1 for each 5 patients</i>
<i>Hotel</i>	<i>1 per hotel room, plus 1 for each 2 employees</i>
<i>Industrial or manufacturing establishment</i>	<i>1 for each 400 square feet of gross floor area or for each 3 workers, whichever provides the greater amount of parking space</i>
<i>Medical, dental or urgent care facility</i>	<i>1 per 200 square feet of floor area</i>
<i>Office building</i>	<i>1 for each 300 square feet of office floor area</i>
<i>Restaurant or other eating place</i>	<i>1 for each 3 seats, plus 1 for each 2 employees</i>
<i>Restaurant, fast-food, with drive-through</i>	<i>1 per 120 square feet of floor area</i>
<i>Senior housing, continued care retirement community, nursing home, senior citizen residential community and senior living care facility</i>	<i>1 per 1.8 residents</i>
<i>Store</i>	<i>1 for each 200 square feet of store floor area and 1 for each 2 employees</i>
<i>Theater, church or other place of public assemblage</i>	<i>1 for each 2 seats, based on maximum seating capacity</i>

33. Section 295-47A is amended as follows: “No building damaged by fire or by an act of God to the extent of more than 50% of its true value shall be repaired or rebuilt, except in conformity with the regulations of this chapter., except one- and two-family dwellings shall be permitted to be rebuilt regardless of current zoning classification. Nothing in this chapter shall prevent the replacement of any structural member to ensure the safety of a building. If a request is made to use the existing foundation, or a part thereof, written documentation from a licensed structural engineer approving this use must be presented to the Town prior to a permit being issued. Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter. No nonconforming use shall be extended to displace a conforming use.”

34. Section 295-49 is amended as follows:

**§ 295-49. Residential outdoor swimming pools.**

- A. *Private swimming pools. Outdoor swimming pools shall be permitted only in the rear yards of residential lots. A permit for such pool shall be obtained from the Fire Marshal/Building Inspector. Such pool shall comply with residential setback regulations applicable to the lot. The permit shall not be issued unless the applicant shall submit plans providing for a protective fence at least four feet high, but not higher than six feet, and at least 10 feet from the pool enclosing said pool on all sides, with an access gate that is equipped with a lock. Such gate shall be locked when the pool is not in use. The pool shall be so constructed so as not to interfere with sewage,*

*water or drainage of the lot or of other lands. In accordance with Chapter 236, Stormwater Management, dechlorinated water drained from the pool shall be discharged only into storm sewers or by other means not detrimental to other property. Lighting shall not be directed at neighboring property. The water of such pools shall be maintained at all times in a sanitary condition in accordance with the bacterial standards of the Sanitary Code of the State of New York and the Property Maintenance Code of New York State. The pool, fence, gate and drains must be constructed as required by this section and the New York State Uniform Fire Prevention and Building Code.*

- B. Public swimming pools. For swimming pools operated in connection with an apartment, a hotel or motel or otherwise available for public use, a site plan, including fencing and all safety features, shall be required and approved by the Planning Board prior to issuance of a building permit. The pool shall be required to be attended by a lifeguard when in use.*

35. Section 295-51C(1) is added as follows:

- (1) Permits required.*

- (a) All telecommunications facilities require approval by the Planning Board prior to construction or colocation.*
- (b) In the event that a telecommunications facility is proposed to be located on a structure/building, or an accessory structure associated with the telecommunications facility is proposed, a building permit issued by the Building and Fire Prevention Department will be required, but only after having been reviewed and approved by the Planning Board. Exception: one- and two-family homes and townhouses.*

36. Section 295-51D(1)(c)[1] is amended as follows: “Existing on-site vegetation shall be preserved to the maximum extent possible. A tree survey showing all trees of four-inch caliper or greater shall be conducted and mapped and submitted as part of the development plan.”

37. Section 295-52.1 is amended as follows:

***§ 295-52.1. Open space incentive option.***

*In addition to the site analysis requirements, a project which provides permanent open space protection in the subdivision plan may be eligible to utilize the open space incentive option to gain an increase in the total number of lots.*

38. Former Art. XVI, Land Use Districts, § 295-68, Zoning descriptions, is repealed. A summary Table of Zoning Map Amendments is included as an attachment to Chapter 295.

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## Chapter 1

### GENERAL PROVISIONS

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§ 1-13. When effective.

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

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#### ARTICLE I Adoption of Code

[Adopted 6-20-2001 by L.L. No. 3-2001]

##### § 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Henrietta, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 295, together with an Appendix, shall be known collectively as the "Code of the Town of Henrietta," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Henrietta" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

##### § 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Board of the Town of Henrietta, and it is the intention of said Board that each such provision

contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

All local laws and ordinances of a general and permanent nature of the Town of Henrietta in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

**§ 1-4. Enactments saved from repeal; matters not affected.**

The repeal of local laws and ordinances provided for in § 1-3 of this local law shall not affect the following classes of local laws, ordinances, rights and obligations, which are hereby expressly saved from repeal:

- A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Henrietta prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Henrietta or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Henrietta.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Henrietta.
- E. Any local law or ordinance of the Town of Henrietta providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Henrietta or any portion thereof.
- F. Any local law or ordinance of the Town of Henrietta appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Henrietta or other instruments or evidence of the Town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract, agreement or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any local law or ordinance relating to salaries and compensation.

- K. Any local law or ordinance amending the Zoning Map.
- L. Any local law or ordinance relating to or establishing a pension plan or pension fund for Town employees.
- M. Any local law or ordinance or portion of a local law or ordinance establishing a specific fee amount for any license, permit or service obtained from the Town.
- N. Any local law adopted subsequent to 2-7-2001.

#### **§ 1-5. Severability.**

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

#### **§ 1-6. Copy of Code on file.**

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Henrietta and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified by the Town Clerk of the Town of Henrietta by impressing thereon the Seal of the Town, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

#### **§ 1-7. Amendments to Code.**

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Henrietta" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

**§ 1-8. Code book to be kept up-to-date.**

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

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

Copies of the Code, or any chapter or portion of it, may be purchased from the Town Clerk, or an authorized agent of the Clerk, upon the payment of a fee to be set by resolution of the Town Board. The Clerk may also arrange for procedures for the periodic supplementation of the Code.

**§ 1-10. Penalties for tampering with Code.**

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

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

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Henrietta, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsections B and C hereof. Certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. The following changes are made throughout the Code:
  - (1) All references to the "Town Engineer" are amended to read "Director of Engineering and Planning."
  - (2) All references to the "Building Bureau" and "Building Department" and "Building and Development Department" and "Office of Fire Prevention" are amended to read "Department of the Fire Marshal/Building Inspector." **[Amended 2-15-2006 by L.L. No. 1-2006]**

- (3) All references to the "Building Inspector" and "Building and Development Coordinator" and "Building and Development Coordinator and/or Building Inspector" are amended to read "Fire Marshal/Building Inspector." **[Amended 2-15-2006 by L.L. No. 1-2006]**
  - (4) All references to the "Deputy Building and Development Coordinator and/or Assistant Building Inspector" are amended to read "Assistant Building Inspector." **[Amended 2-15-2006 by L.L. No. 1-2006]**
  - (5) All references to the "Highway Superintendent" are amended to read "Town Superintendent of Highways."
  - (6) All references to the "Master Plan," "Comprehensive Plan" and "Comprehensive Master Plan" are amended to read "Comprehensive Land Use Plan."
  - (7) All references to the "Board of Appeals" are amended to read "Zoning Board of Appeals."
- C. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)<sup>1</sup>

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

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

#### **§ 1-13. When effective.**

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

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1. Editor's Note: Schedule A is on file at the Town Clerk's office.





## Chapter 6

### ADULT USE ESTABLISHMENTS; PUBLIC EXPOSURE

§ 6-1. District where permitted.

§ 6-2. Purposes.

§ 6-3. Definitions.

§ 6-4. Restrictions on location.

§ 6-5. Exposure of a person.

§ 6-6. Promoting the exposure of a person.

§ 6-7. Continuation of offense.

[HISTORY: Adopted by the Town Board of the Town of Henrietta 3-16-1994. Amendments noted where applicable.]

#### GENERAL REFERENCES

Zoning — See Ch. 295.

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#### § 6-1. District where permitted.

Adult use establishments, as herein defined, shall only be allowed in Industrial/Limited Commercial Districts as specifically set forth herein and only to the extent not inconsistent with local law and the New York State Penal Law relating to exposure, obscenity or lewdness.

#### § 6-2. Purposes.

The primary purposes of this chapter are as follows:

- A. To preserve the character and quality of life in Town neighborhoods and business areas.
- B. To control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as decreased property values, attraction of transients, parking and traffic problems, increased crime (including prostitution, rape and assaults in the vicinity of such uses), loss of business for surrounding non-adult businesses and deterioration of neighborhoods.
- C. To maintain property values.
- D. To prevent crime.
- E. To protect retail trade.
- F. To restrict minors' access to adult uses.
- G. To maintain the general welfare, safety and morals for Town of Henrietta residents.

**§ 6-3. Definitions. [Amended 9-21-1994]**

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

**ADULT USE ESTABLISHMENT** — A public or private establishment, or any part thereof, which presents any of the following entertainments or services on one or more occasions:

- A. **ADULT ARCADE** — Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still- or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
- B. **ADULT BOOKSTORE or ADULT VIDEO STORE** — A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
  - (1) Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
  - (2) Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as "adult bookstore" or "adult video store" so long as one of its principal business purposes is the offering for sale or rental for consideration of the specified materials which depict or describe specified sexual activities or specified anatomical areas.
- C. **ADULT CABARET** — A nightclub, bar, restaurant or similar commercial establishment which regularly features:
  - (1) Persons who appear in a state of nudity.
  - (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.
  - (3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- D. **ADULT MOTEL** — A hotel, motel or similar commercial establishment which:
  - (1) Offers accommodations to the public for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.

- (2) Offers a sleeping room for rent for a period of time that is less than 10 hours.
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- E. **ADULT MOTION-PICTURE THEATER** — A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
- F. **ADULT THEATER** — A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity.
- G. **SEXUAL ENCOUNTER CENTER** — A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
  - (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex.
  - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.
- H. **ESCORT** — A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- I. **ESCORT AGENCY** — A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- J. **NUDE MODEL STUDIO** — Any place where a person who appears in a state of nudity or displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration.
- K. **MASSAGE PARLOR** — An establishment where, for any form of consideration, massage, alcohol rub fomentation, electric or magnetic treatment or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist or similar professional person licensed by the state. This definition does not include an athletic club, health club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

**SPECIFIED ANATOMICAL AREAS** — Any of the following:

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

SPECIFIED SEXUAL ACTIVITY — Any of the following:

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.
- D. Flagellation or torture in the context of a sexual relationship.
- E. Masochism, erotic or sexually oriented torture, beating or the infliction of pain.
- F. Erotic touching, fondling or other such contact with an animal by a human being.
- G. Human excretion, urination, menstruation or vaginal or anal irrigation as part of or in connection with any of the activities set forth in Subsections A through F above.

**§ 6-4. Restrictions on location. [Amended 9-21-1994]**

- A. Adult use establishments, as defined above, are to be restricted as to location in the following manner in addition to any other requirements of this Code:
  - (1) The property lines of any adult use establishment must be at least 500 feet from the property lines of a residence or residentially zoned property, schools, day-care facilities, churches (or other religious places of worship), parks, playgrounds or other areas where large numbers of minors congregate, open space or greenbelt areas or governmental facilities.
  - (2) The property lines of any adult use establishment must be at least 1,000 feet from the property lines of another adult use establishment. **[Amended 6-20-2001 by L.L. No. 3-2001]**
  - (3) All adult uses shall be conducted in an enclosed building. Regardless of location or distance, no one who is passing by an enclosed building having a use governed by these provisions shall be able to visually see any specified anatomical area or any specified sexual activity by virtue of any display which depicts or shows said area or activity. This requirement shall apply to any display, decoration, sign, window or other opening.
- B. Offenses against the provisions of this section shall be punishable by a fine in an amount not to exceed \$250, a term of imprisonment not to exceed 15 days, or both. This section shall be enforceable by injunction.<sup>1</sup>

**§ 6-5. Exposure of a person.**

This section is enacted pursuant to the New York State Penal Law § 245.01.

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1. Editor's Note: Adoption of amendments pending.

§ 6-5

## ADULT USE ESTABLISHMENTS; PUBLIC EXPOSURE

§ 6-7

- A. Except in those establishments expressly permitted by this chapter, a person is guilty of exposure if he or she appears in a public place, including a play, in a state of nudity or in such manner that the private or intimate parts of his or her body are unclothed or exposed.<sup>2</sup>
- B. "Nudity" means less than completely and opaquely covered:
  - (1) Human genitals, pubic region.
  - (2) Buttocks.
  - (3) Female breast below a point immediately above the top of the areola, except where exposure is related to breastfeeding.<sup>3</sup>
  - (4) Human male genitals in a discernible turgid state, even if completely and opaquely covered.
- C. Exposure of a person is a violation, punishable by a fine, in an amount fixed by the court, not to exceed \$250, a term of imprisonment, fixed by the court, not to exceed 15 days, or both. Additionally, this section may be enforced by injunction.

**§ 6-6. Promoting the exposure of a person. <sup>4</sup>**

This section is enacted pursuant to the New York State Penal Law § 245.02.

- A. Except in those establishments expressly permitted by this chapter, a person is guilty of promoting the exposure of a person when he or she knowingly conducts, maintains, owns, manages, operates or furnishes any public premises or place, including during a play, where a person appears in a state of nudity, as defined in § 6-5B herein, or where a person appears in such a manner that the private or intimate parts of his or her body are unclothed or exposed.
- B. Promoting the exposure of a person is a violation, punishable by either a fine, in an amount fixed by the court, not to exceed \$250, a term of imprisonment, fixed by the court, not to exceed 15 days, or both. Additionally, this section may be enforced by injunction.

**§ 6-7. Continuation of offense.**

The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

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2. Editor's Note: Adoption of amendments pending.

3. Editor's Note: Adoption of amendments pending.

4. Editor's Note: Adoption of amendments pending.



## Chapter 13

### ALARM SYSTEMS

- |   |  |
|---|--|
| <p>§ 13-1. Title.</p> <p>§ 13-2. Purpose.</p> <p>§ 13-3. Definitions; exemption.</p> <p>§ 13-4. Minimum standards and regulations.</p> <p>§ 13-5. Audible alarms.</p> <p>§ 13-6. Permit required for possession or use of system.</p> <p>§ 13-7. Fire alarm permit to be kept on premises.</p> <p>§ 13-8. Exemptions.</p> | <p>§ 13-9. Notice of change of information required.</p> <p>§ 13-10. Application for permits; investigation; denial or issuance.</p> <p>§ 13-11. Appeal procedure.</p> <p>§ 13-12. Permit fees.</p> <p>§ 13-13. Suspension and revocation of permits.</p> <p>§ 13-14. Civil penalties.</p> <p>§ 13-15. Enforcement.</p> <p>§ 13-16. Records.</p> |
|---|--|

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 10-3-2001 by L.L. No. 5-2001.<sup>1</sup> Amendments noted where applicable.]**

#### GENERAL REFERENCES

Noise — See Ch. 168.

Fees — See Ch. A301.

Property maintenance — See Ch. 205.

#### § 13-1. Title.

This chapter shall be known as the "Fire Alarm Permit Law."

#### § 13-2. Purpose.

It is the purpose of this chapter to protect and promote the health, safety and general welfare of the residents of the Town of Henrietta by reducing the number of avoidable alarms to emergency agencies. Avoidable alarms contribute to ineffective utilization of public safety manpower and equipment. In addition, avoidable alarms require emergency responses, which may contribute to a high accident rate and delayed responses to genuine emergencies. This chapter seeks to ensure that fire communications facilities will be available to dispatch fire personnel for actual emergencies and to alleviate the nuisance of audible alarms to the surrounding community. Another purpose of the chapter is to contact responsible people to notify them of the activation of the alarm. This chapter also requires registration of alarm businesses and subscribers for the purpose of permitting the Town to communicate with them regarding the administration of this chapter.

1. Editor's Note: This local law was adopted as Ch. 22, but was renumbered to fit into the organizational structure of the Code.

**§ 13-3. Definitions; exemption.**

- A. For the purpose of this chapter, certain words and phrases shall be construed herein as set forth in this section, unless it is apparent from the context that a different meaning is intended:

**ALARM BUSINESS** — The business by any individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing any fire alarm system or causing to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed any fire alarm system in or on any building, structure or facility.

**ALARM SYSTEM INSTALLER** — Any person whose duties include installing, maintaining, repairing, altering, servicing or replacing a fire alarm system in or on any building, structure or facility.

**APPELLANT** — A person who perfects an appeal pursuant to this chapter.

**APPLICANT** — A person, firm or corporation who or which files an application for a new or renewal permit as provided in this chapter.

**AUDIBLE ALARM** — A device which generates an audible sound on the premises when it is actuated.

**AVOIDABLE ALARM** — The activation of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner, user, custodian or lessee of an alarm system or his employees or agents or through any other cause which, through direct connection to an emergency agency or which, through notification of an emergency agency by a private answering point or automatic dialing device, or which through notification to an emergency agency by any other second party or means, indicates that an emergency situation exists requiring an emergency response within the Town of Henrietta when, in fact, an emergency situation does not exist. An avoidable alarm also includes the knowing or intentional activation of an alarm to an emergency agency when the activator knows that an emergency does not exist. Avoidable alarm does not include alarms activated by violent conditions of nature, such as earthquakes, hurricanes, tornadoes or any other similar cause beyond the control of the user of an alarm system. Activation of an alarm system under any circumstance in which the activator reasonably believes that an emergency situation exists is not an avoidable alarm.

**DAY** — Calendar day.

**FIRE ALARM SYSTEM** — Any mechanical or electrical device which is designed or used for the detection of fire and which emits a sound or transmits a signal or message when activated. Fire alarm systems include but are not limited to direct dial telephone devices, audible alarms and proprietor alarms. Devices which are not designed or used to register alarms that are audible, visible or perceptible outside of the protected building, structure or facility are not included within this definition, nor are auxiliary devices installed by the telephone company or a cable television company to protect its systems which might be damaged or disrupted by the use of an alarm system.



**FIRE DISTRICT** — The Henrietta Fire District.

**FIRE MARSHAL** — The Fire Marshal/Building Inspector of the Town of Henrietta or his deputy.<sup>2</sup>

**NOTICE** — Written notice, given by personal service upon the addressee or given by United States mail, postage prepaid, addressed to the person to be notified at his last known address. Service of such notice shall be effective upon the completion of personal service or upon the placing of the same in the custody of the United States Postal Service.<sup>3</sup>

**PERSON** — A natural person, firm, partnership, association or corporation.

**SUBSCRIBER** — Any person who owns, leases, contracts for or otherwise obtains a fire alarm system. A person or entity may be both a subscriber and an alarm business.

**TOWN** — The Town of Henrietta.

- B. Exemption. The provisions of this chapter shall not apply to a person who engages in the manufacture or sale of a fire alarm system from a fixed location and who neither visits the location where the fire alarm system is to be installed nor designs the scheme for physical location and installation of the fire alarm system in a specific location.

#### **§ 13-4. Minimum standards and regulations.**

The Fire Marshal may prescribe minimum standards and regulations for the construction and maintenance of all fire alarm systems installed within the Town. These standards and regulations shall become effective upon adoption thereof by resolution of the Town Board of the Town of Henrietta. All devices shall meet or exceed such standards and regulations before permits may be issued pursuant to this chapter. The Fire Marshal may require inspection and approval of all alarm systems installed within the Town. The Fire Marshal may prescribe a certification form to be completed by permittees certifying that a fire alarm system has been inspected and/or maintained by the permittee and the fire alarm system conforms to said minimum standards. Installation shall comply with NFPA 72 or other applicable generally accepted standard in effect at the time of installation.

#### **§ 13-5. Audible alarms.**

- A. Every subscriber maintaining an audible alarm shall post a notice containing the names and telephone numbers of the persons to be notified to render repairs or service and secure the premises during any hour of the day or night that the alarm is actuated. Such notice shall be posted near the alarm in such a position as to be legible from the ground level adjacent to the building where the alarm system is located. In lieu thereof, such person may maintain such information with the Fire Marshal and Fire District.

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2. Editor's Note: Amendments pending adoption.

3. Editor's Note: The definition of "permittee," which immediately followed this definition, was repealed at time of adoption of Code.

- B. Fire District officers or any peace officer may disable an activated alarm, and neither the Fire District nor such official shall be liable for any damage that may result.

**§ 13-6. Permit required for possession or use of system.**

No person shall possess or use a fire alarm system without first applying for and receiving a fire alarm permit therefor in accordance with the provisions of this chapter.

**§ 13-7. Fire alarm permit to be kept on premises. <sup>4</sup>**

Such fire alarm permit shall be kept on the premises where the alarm system is located. The Fire Marshal may issue an appropriate permit identification tag and establish requirements for its posting.

**§ 13-8. Exemptions.**

- A. The provisions of this chapter are not applicable to audible alarms affixed to automobiles.
- B. Permits shall be required for alarm systems located in buildings of federal, state or local governmental agencies or authorities or in public elementary or secondary schools, and said alarm systems shall meet the other requirements of this chapter, including liability for civil penalties for its violation; provided, however, such alarm systems shall be exempt from permit fees, and no other provisions shall be made directing the use of such alarm systems nor shall they be discontinued or permits suspended or revoked.

**§ 13-9. Notice of change of information required.**

Whenever any change occurs relating to the written information required by § 13-10C of this chapter, the applicant or permittee shall give written notice thereof to the Fire Marshal within 20 days after such change.

**§ 13-10. Application for permits; investigation; denial or issuance.**

- A. Issuing authority. The issuing authority shall be the Fire Marshal.
- B. Approving authority. The approving authority shall be the Fire Marshal.
- C. Applications; forms. Applications for all permits required hereunder shall be filed with the Fire Marshal and shall be accompanied by the requisite fee. The fee is established to cover part of the cost of investigating and processing the applications and permits and is not refundable. The Fire Marshal shall prescribe the form of the application and request such information as is necessary to evaluate and act upon the permit application. The application for fire alarm systems shall require the name, address and telephone number of the person who will render service or repairs during any hour of the day or night.

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4. Editor's Note: Amendments pending adoption.

- D. Application investigation and denial, alarm systems. The permit shall be denied by the Fire Marshal if the alarm system does not comply with standards and regulations adopted pursuant to § 13-4 of this chapter. Said permit shall be issued to the person owning, using or possessing the fire alarm system. Said permit shall be revoked 90 days after the conveyance of premises on which the fire alarm system is located unless a permittee shall certify that the fire alarm system has been inspected and/or maintained by the permittee after said conveyance and it conforms to the standards and regulations adopted pursuant to § 13-4.

**§ 13-11. Appeal procedure.**

- A. Permit applications. The Fire Marshal shall review the applications for all permits required to be issued under this chapter. The decision of the Fire Marshal shall be final.
- B. The final determination of the Fire Marshal may be appealed pursuant to Article 78 of the Civil Practice Law and Rules.

**§ 13-12. Permit fees.**

Alarm system permits. The fee for an alarm system permit shall be set by the Town Board. Each permit shall expire two years after issuance. Applications for renewals of permits shall be renewed only upon the certification by a permittee that the fire alarm system has been inspected and/or maintained by the permittee within the past 90 days and it conforms to the standards and regulations adopted pursuant to § 13-4. The fee for renewal of such permit shall be set by Town Board.

**§ 13-13. Suspension and revocation of permits. <sup>5</sup>**

- A. Grounds. The following shall constitute grounds for suspension and revocation of the alarm system permit of a subscriber:
- (1) The violation of any of the provisions of this chapter.
  - (2) The failure to comply with standards or regulations adopted pursuant to § 13-4 of this chapter.
  - (3) Where his fire alarm system actuates excessive avoidable alarms and thereby constitutes a public nuisance, which shall be deemed to be three avoidable alarms in any one-hundred-eighty-day period.
  - (4) Where the subscriber, his employee or agent has knowingly made any false, misleading or fraudulent statement of a material fact in the application for a permit or in any report or record required to be filed with any Town agency.

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5. Editor's Note: Amendments pending adoption.

- (5) Where the subscriber has had a similar type permit previously revoked for good cause within the past year, unless the applicant can show a material change in circumstances since the date of revocation.
- (6) A subscriber has failed to keep his alarm system in good repair.
- (7) A subscriber has failed to notify the Fire District, Monroe County Fire Dispatcher and any party who would receive direct communication of an alarm prior to any service, test, repair, maintenance, adjustment, alteration or installation which might actuate an avoidable alarm. For the purposes of these standards and regulations, any alarm actuated where such prior notice has been given shall not constitute an avoidable alarm.

B. Authority.

- (1) The Fire Marshal or his designee shall investigate written reports of each alleged avoidable alarm or alleged violations of other provisions of this chapter. Notice of said written report alleging violation shall be given to the subscriber.
- (2) The person alleged in violation of this chapter shall be given notice of the investigation and an opportunity to be heard during the investigative process. The Fire Marshal may hold a hearing if, in his sole discretion, it is deemed appropriate.
- (3) Upon completion of his investigation, the Fire Marshal shall make a determination, which shall be final. The Fire Marshal shall give notice of said decision to the person alleged to be in violation and to the party who made the report which initiated the investigation.
- (4) A final determination of the Fire Marshal may be appealed pursuant to Article 78 of the Civil Practice Law and Rules.

C. Procedure. If a person is found to be in violation of this chapter, the Fire Marshal shall:

- (1) Serve the person determined to be in violation with a written order of suspension. Said order shall be effective immediately, if personally served, or three business days after the same has been deposited in the United States Postal Service.
- (2) Immediately upon such an order becoming effective, the person in violation shall discontinue use of any alarm system requiring a permit issued pursuant to this chapter and cease all operations conducted under the authority of any permit issuance pursuant to this chapter.
- (3) In the event that an order of suspension has been issued for violation of Subsection A(3), the Fire Marshal may reinstate an alarm system permit upon receipt of the certification that the fire alarm system has been inspected and/or maintained subsequent to the issuance of the order of suspension and a further certification from a permittee that it conforms to the standards and regulations adopted pursuant to § 13-4.

D. Revocation.

- (1) The order of suspension shall, if the permit is not reinstated, become a revocation 15 days after the order of suspension becomes effective, unless the subscriber or permittee initiates an appeal from the determination of the Fire Marshal.
  - (2) Where an appeal has been initiated, the order of suspension shall be stayed pending the determination of said appeal.
- E. Surrender of permit. If any permit is revoked pursuant to this chapter, the subscriber or permittee shall surrender said permit to the Fire Marshal.

#### **§ 13-14. Civil penalties. <sup>6</sup>**

In addition to other provisions of this chapter, persons in violation thereof shall be liable for civil penalties as follows:

- A. Failure to have an alarm system permit: \$100 for each violation; provided, however, until one year from the effective date of this chapter, said penalty shall be deemed waived if the subscriber obtains an alarm system permit within 10 days of notification of the violation.
- B. Violation of § 13-13A(3).
  - (1) Third avoidable alarm: \$100.
  - (2) Fourth avoidable alarm: \$150.
  - (3) Each avoidable alarm thereafter: \$200.

#### **§ 13-15. Enforcement.**

All remedies shall be cumulative, and the use of one or more remedies by the Town shall not bar the use of any other remedy for the purpose of enforcing the provisions of this chapter. The amount of any fee shall be deemed a debt to the Town. An action may be commenced in the name of the Town in any court of competent jurisdiction for the amount of any delinquent permit fee or civil penalty. All permit fees shall be due upon issuance of the permit.

#### **§ 13-16. Records.**

- A. Information contained on applications for permits required under this chapter shall be confidential.
- B. Records of avoidable alarms of subscribers shall be deemed to be confidential.
- C. Records of avoidable alarms on the equipment of any alarm business shall be indexed under the alarm business which installed and/or who certified it to be in conformance with the standards and regulations adopted pursuant to § 13-4. Said records shall be available to the public.

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<sup>6</sup> Editor's Note: Amendments pending adoption.

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- D. All information on applications pertaining to avoidable alarms shall not be deemed confidential insofar as it is necessary to conduct any litigation under this chapter or to be provided to appropriate officials for fire protection purposes.
- E. The Fire Marshal shall retain all records regarding applications, avoidable alarm reports, investigations and all other data necessary for compliance with this chapter.

## Chapter 16

### ALCOHOLIC BEVERAGES

**§ 16-1. Statutory authority; findings of fact.**

**§ 16-2. Definitions.**

**§ 16-3. Possession in public places prohibited.**

**§ 16-4. Discarding containers.**

**§ 16-5. Penalties for offenses.**

**§ 16-6. Enforcement.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 6-2-1982 by L.L. No. 1-1982. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Alcoholic beverages in parks — See Ch. 187.

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**§ 16-1. Statutory authority; findings of fact.**

- A. The Town of Henrietta by and through its Town Board and pursuant to the authority vested in the Board by the New York State Municipal Home Rule Law and other statutes hereby enacts this chapter for the consumption and drinking of beer and other alcoholic beverages in public areas and prohibiting the possession with intent to consume of any open bottle or container containing beer and other alcoholic beverages in public areas within the town limits of the Town of Henrietta. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- B. The Town Board of the Town of Henrietta finds that the uncontrolled consumption and drinking of beer and other alcoholic beverages in public areas is detrimental to the good order, protection, health, safety and well-being of its residents and tends to create unsightly and unsanitary conditions and creates a nuisance.

**§ 16-2. Definitions. [Added 6-20-2001 by L.L. No. 3-2001]**

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

**INTENT TO CONSUME** — Drinking from the container, with alcohol on the breath of the possessor and/or any circumstances evidencing an intent to ultimately consume on any public lands.

**OPEN CONTAINER** — A container with the contents exposed to the atmosphere or the seal thereof broken.

**§ 16-3. Possession in public places prohibited. [Amended 6-20-2001 by L.L. No. 3-2001]**

No person shall have in his possession with intent to consume an open bottle or container containing liquor, beer, wine or other alcoholic beverages while such person is on any

sidewalk, public highway, public street or public parking area, and, in addition to the foregoing areas, "public place" shall also mean a place to which the public or a substantial group of persons has access and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, shopping centers and parking lots in connection therewith and except those premises duly licensed for the sale and consumption of alcoholic beverages on the premises.<sup>1</sup>

**§ 16-4. Discarding containers.**

No person shall leave a bottle in any area provided hereinabove other than in a receptacle specifically designated for the deposit of trash.

**§ 16-5. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

A violation of this chapter shall constitute an offense, and the person violating this chapter, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for a period not to exceed 15 days, or both.

**§ 16-6. Enforcement.**

This chapter shall be enforced by the Monroe County Sheriff's Department and the New York State Police Department.

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1. Editor's Note: Former § 3, Possession in vehicles, which immediately followed this section, was deleted 6-20-2001 by L.L. No. 3-2001.



## **Chapter 20**

### **AMUSEMENT CENTERS**

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| <p><b>§ 20-1. Definitions.</b></p> <p><b>§ 20-2. License required.</b></p> <p><b>§ 20-3. Application procedure; inspections; requirements for licensing.</b></p> <p><b>§ 20-4. Operation of centers.</b></p> <p><b>§ 20-5. Fees.</b></p> | <p><b>§ 20-6. Expiration of license.</b></p> <p><b>§ 20-7. Owner identification to be affixed to each game.</b></p> <p><b>§ 20-8. Operation of games.</b></p> <p><b>§ 20-9. Denial of license.</b></p> <p><b>§ 20-10. Appeals.</b></p> <p><b>§ 20-11. Penalties for offenses.</b></p> |
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**[HISTORY: Adopted by the Town Board of the Town of Henrietta 5-5-1982. Amendments noted where applicable.]**

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#### **§ 20-1. Definitions.**

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

**AMUSEMENT CENTER** — The premises, including a theater, restaurant, hall, auditorium, tent, structure, building or enclosure of any type, within which is produced, offered, presented or operated three or more coin-operated amusement games. This definition does not include such premises in which jukeboxes are the only type of amusement game.

**AMUSEMENT GAME** — Any mechanical or electronic device used or designed to be operated for entertainment or as a game by the insertion of a coin and shall include the type of mechanical or electronic devices commonly known as "baseball," "radio," "target gun" or similar target, "football," "pinball," "pool table," "snooker table," "foosball" and television-screen-type games such as tennis or handball. The above enumeration shall not be deemed to be exclusive. This definition does not include any device the possession or use of which is prohibited by law. **[Amended 6-20-2001 by L.L. No. 3-2001]**

**PERSON** — Includes any individual, any business enterprise, such as a corporation, partnership, association, trust or firm, and any trustee or receiver.

#### **§ 20-2. License required.**

No person shall maintain or operate an amusement center within the Town of Henrietta without first having obtained an amusement center license.

**§ 20-3. Application procedure; inspections; requirements for licensing. [Amended 6-20-2001 by L.L. No. 3-2001]**

- A. An application for an amusement center license shall be made to the Town of Henrietta.
- B. Upon receipt of an application for an amusement center license and after approval for zoning code compliance by the Fire Marshal/Building Inspector, said Fire Marshal/Building Inspector shall cause an inspection of the premises to be made to determine whether the applicant is complying with the laws and ordinances which he is charged with enforcing. Said Fire Marshal/Building Inspector and members of his staff shall have the right to enter upon any premises for which an amusement center license is sought for the purpose of making such an inspection during normal business hours.  
[Amended 2-15-2006 by L.L. No. 1-2006]
- C. Upon receipt of the application for the amusement center license, the Town of Henrietta shall cause an inspection to be made of the premises to determine whether public safety problems exist on the premises, and the Town of Henrietta shall cause an investigation to be made of the background of the owner and the operator of the center. The Town of Henrietta and its representatives shall have the right to enter upon such premises for the purpose of making such inspections during normal business hours. Further inspections of the premises may be made after a license has been issued to ensure compliance with laws and ordinances relating to amusement centers.
- D. Except as provided in the New York Correction Law, Article 23-A, no amusement center license shall be issued to any person who has pled guilty to or has been convicted of any felony.
- E. No amusement center license shall be issued for an amusement center located within 400 feet of a public or private, elementary or secondary school.

**§ 20-4. Operation of centers.**

- A. The owner and operator of any amusement center shall comply with all provisions of federal, state and local laws and ordinances relating to the conduct of business and the use and maintenance of the premises.
- B. The owner and operator of any amusement center shall comply with all the notices, orders, decisions and rules and regulations made by the Town of Henrietta governing the occupation and use of said premises.
- C. The owner and operator of any amusement center shall cause the amusement center license to be posted in a conspicuous place on the premises of the amusement center.
- D. The owner and operator of any amusement center shall not permit at any time a greater number of persons on the premises than the capacity approved by the Town of Henrietta and set forth on the amusement license.
- E. The owner and operator of any amusement center shall maintain good order on the premises at all times. The lack of good order on the premises shall include but not be limited to the following:

- (1) Fighting and rowdy behavior.
- (2) Illegal or excessive consumption of alcoholic beverages and drug-related material.
- (3) Gambling.

**§ 20-5. Fees.**

- A. Refer to the current fee schedule as approved by the Town Board. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- B. Fees for an initial amusement center license issued for less than a full year shall be prorated on a quarterly basis. Payment of the fee shall be due upon application for the license.

**§ 20-6. Expiration of license.**

Amusement center licenses shall expire on December 31 of each year.

**§ 20-7. Owner identification to be affixed to each game.**

Every owner of an amusement game in an amusement center shall cause his name, business address and telephone number to be affixed to each such game.

**§ 20-8. Operation of games.**

- A. No minor under 16 years of age shall be allowed to operate any amusement game in an amusement center, except jukeboxes, after dusk unless such minor is accompanied by a parent or guardian. Such restriction will be posted in a sign in a conspicuous place near the amusement games.
- B. No cash awards shall be offered or given in any contest, tournament, league or individual play on any amusement game in an amusement center, and no such game shall be permitted to operate if said game delivers or may readily be converted to deliver to the player any coins, slugs or metal tokens.
- C. No credit, allowance, check, slug, token or anything of value shall be offered or given to any player of any amusement game in an amusement center as a result of plays made thereon.
- D. The licensee of any amusement game in an amusement center shall comply with all provisions of federal, state and local laws and ordinances pertaining to such games.
- E. The Town of Henrietta may promulgate rules and regulations to govern the operation and control of amusement games in amusement centers to provide for the orderly operation of amusement centers and to ensure the public safety and the peace and tranquillity of the neighborhood where the centers are located.

**§ 20-9. Denial of license.**

- A. The Town of Henrietta may deny or revoke a license or deny the renewal of a license to any applicant who is a convicted felon, who does not comply with the provisions of this chapter or any rules or regulations promulgated under this chapter or who makes a material misrepresentation on the license application. The Town of Henrietta shall give a written notification to an applicant of the reasons for the denial or revocation of a license.
- B. The Town of Henrietta shall have the power to investigate and inquire into licensees and applicants under this chapter and to require and enforce by subpoena the attendance of witnesses at such investigations.

**§ 20-10. Appeals. [Amended 2-15-2006 by L.L. No. 1-2006]**

Any person aggrieved by the action of the Fire Marshal/Building Inspector in the denial of an application for a license, as provided in § 20-3, shall have the right to appeal to the Town Board of the Town of Henrietta. Such appeal shall be taken by filing, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant at his last known address at least five days prior to the date set for the hearing. The granting, refusal or revocation of a license by the Town Board shall be subject to review by certiorari.

**§ 20-11. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

Any person who shall act as an amusement center operator, as herein defined, without a license or who shall violate any of the provisions of this chapter or who shall continue to act subsequent to the revocation of his license shall be guilty of an offense and, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation.

## **Chapter 25**

### **APPEARANCE TICKETS**

**§ 25-1. Authorization to issue appearance tickets.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 10-1-1975. Amendments noted where applicable.]**

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**§ 25-1. Authorization to issue appearance tickets. [Amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006<sup>1</sup> ]**

The Fire Marshal/Building Inspector, Code Enforcement Officer, Assistant Building Inspectors, Deputy Fire Marshals, the Commissioner of Public Works, the Superintendent of Highways, Animal Control Officers and Safety Officers, or designees thereof, of the Town of Henrietta are hereby authorized and empowered to enforce the laws and ordinances of the Town of Henrietta and are further hereby authorized to issue appearance tickets pursuant to § 150.20 of the Criminal Procedure Law.

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**1. Editor's Note: Adoption of amendments pending.**



## Chapter 35

### BINGO

**§ 35-1. Bingo authorized.**

**§ 35-4. Penalties for offenses.**

**§ 35-2. Conduct of games.**

**§ 35-5. Effective date.**

**§ 35-3. Sunday games.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 9-2-1959. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Games of chance — See Ch. 134.

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**§ 35-1. Bingo authorized. [Amended 6-20-2001 by L.L. No. 3-2001]**

It shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Town of Henrietta, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law and any amendments thereto and the following restrictions.<sup>1</sup>

**§ 35-2. Conduct of games. [Added 6-20-2001 by L.L. No. 3-2001]**

The conduct of games of bingo in the Town shall be subject to the requirements of § 479 of the General Municipal Law.

**§ 35-3. Sunday games. <sup>2</sup>**

Any game of bingo conducted within the Town pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as "Sunday."

**§ 35-4. Penalties for offenses.**

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

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1. Editor's Note: Original §§ 2 through 7, which immediately followed this section and provided requirements for the conduct of bingo games, were deleted 6-20-2001 by L.L. No. 3-2001.

2. Editor's Note: Amendments pending adoption.

**§ 35-5. Effective date.**

This chapter shall take effect December 1, 1959, after proper posting and publication as provided for by law and in the event that at a referendum held for the purpose of approving this chapter pursuant to the provisions of law a majority of the qualified electors of the Town of Henrietta voting at said referendum shall approve the same by voting for the proposition.<sup>3</sup>

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3. Editor's Note: A majority of the qualified electors approved this chapter in a special election held 11-3-1959.



## Chapter 48

### BUILDING AND DEVELOPMENT

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| <p>§ 48-1. Adoption of standards.</p> <p>§ 48-2. Establishment of Department.</p> <p>§ 48-3. Appointment of Fire Marshal/Building Inspector.</p> <p>§ 48-4. Appointment of assistants.</p> <p>§ 48-5. Acting Fire Marshal/Building Inspector.</p> <p>§ 48-6. Relief from personal responsibility.</p> <p>§ 48-7. Powers and duties of Fire Marshal/Building Inspector.</p> <p>§ 48-8. Records and reports.</p> <p>§ 48-9. Application for building permits.</p> | <p>§ 48-10. Issuance of building permits.</p> <p>§ 48-11. Performance of work under building permit.</p> <p>§ 48-12. Permit fees.</p> <p>§ 48-13. Revocation of building permit.</p> <p>§ 48-14. Stop orders; penalties for offenses.</p> <p>§ 48-15. Right of entry.</p> <p>§ 48-16. Certificate of occupancy.</p> <p>§ 48-17. Inspection prior to issuance of certificate.</p> <p>§ 48-18. Issuance of certificate of occupancy.</p> <p>§ 48-19. Tests to determine conformity.</p> |
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**[HISTORY: Adopted by the Town Board of the Town of Henrietta 11-20-1984; as amended 6-20-2001 by L.L. No. 3-2001 and 2-15-2006 by L.L. No. 1-2006.<sup>1</sup> Subsequent amendments noted where applicable.]**

#### GENERAL REFERENCES

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| <p>Appearance tickets — See Ch. 25.</p> <p>Numbering of buildings — See Ch. 52.</p> <p>Unsafe buildings — See Ch. 56.</p> <p>Condominium conversions — See Ch. 65.</p> <p>Drainage — See Ch. 84.</p> <p>Electrical standards — See Ch. 94.</p> <p>Fire prevention — See Ch. 119.</p> | <p>Flood damage prevention — See Ch. 125.</p> <p>Parking — See Ch. 183.</p> <p>Plumbing — See Ch. 198.</p> <p>Property maintenance — See Ch. 205.</p> <p>Subdivision of land — See Ch. 245.</p> <p>Zoning — See Ch. 295.</p> <p>Fees — See Ch. A301.</p> |
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#### § 48-1. Adoption of standards.

There is hereby adopted by the Town Board of the Town of Henrietta, New York, for the purpose of prescribing regulations governing building construction and conditions hazardous to life and property from fire, explosion or other causes, the regulations and standards as set forth in the New York State Uniform Fire Prevention and Building Code (henceforth referred to as the "Uniform Code").

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1. Editor's Note: This local law provided for the title changes set forth in § 1-11B(2), (3) and (4) of Ch. 1, General Provisions, and specifically repealed former § 48-7B of this chapter and provided for renumbering of subsequent subsections.

**§ 48-2. Establishment of Department.**

- A. There is hereby established in the Town of Henrietta a department, to be designated as the "Department of the Fire Marshal/Building Inspector," for the administration and enforcement of the provisions of all laws, ordinances, rules, regulations and orders applicable to the location, design, materials, construction, alteration, repair, equipment, maintenance, use, occupancy, removal and demolition of buildings and structures and appurtenances located in the Town of Henrietta.
- B. The Department of the Fire Marshal/Building Inspector shall be headed by a Town official designated as the "Fire Marshal/Building Inspector."

**§ 48-3. Appointment of Fire Marshal/Building Inspector.**

The Fire Marshal/Building Inspector shall be appointed by the Town Board for a term of one year at a compensation to be fixed by the Town Board. He shall not be removed from office except for cause after hearing on specific charges before the Town Board.

**§ 48-4. Appointment of assistants.**

The Town Board may appoint one or more Assistant Building Inspectors, as the need may appear, to exercise, pursuant to the provisions of this chapter, any or all of the duties of the Fire Marshal/Building Inspector. The compensation of such Assistant Building Inspectors shall be fixed by the Town Board.

**§ 48-5. Acting Fire Marshal/Building Inspector.**

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

**§ 48-6. Relief from personal responsibility.**

No official or employee of the Department of the Fire Marshal/Building Inspector shall, while acting pursuant to the provisions of this chapter, be personally liable for any damage that may accrue to persons or property as the result of any act required or permitted in the discharge of his official duties, provided that such acts are performed in good faith and without gross negligence.

**§ 48-7. Powers and duties of Fire Marshal/Building Inspector.**

- A. The Uniform Code and this chapter shall be administered and enforced by the Fire Marshal/Building Inspector.
- B. The Fire Marshal/Building Inspector shall issue appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction or

demolition and to assure compliance with all applicable laws, codes, ordinances, rules and regulations.

- C. Except as otherwise specifically provided by law, ordinance, rule or regulation or except as herein otherwise provided, the Fire Marshal/Building Inspector shall administer and enforce all the provisions of laws, codes, ordinances, rules, regulations and orders applicable to the location, design, materials, construction, alteration, repair, equipment, maintenance, use, occupancy, removal and demolition of buildings, structures and appurtenances thereof.
- D. The Department of the Fire Marshal/Building Inspector shall be headed by a Town official designated as the Fire Marshal/Building Inspector. The Fire Marshal/Building Inspector may be assisted by one or more Assistant Building Inspectors who shall have the power to act generally for and on behalf of the Fire Marshal/Building Inspector. Additionally, the Fire Marshal/Building Inspector may be assisted by one or more other employees as may be deemed necessary to carry out the functions of the office.
- E. The Fire Marshal/Building Inspector shall receive and review permit applications, together with applicable drawings and other documents as may be required, and shall issue permits for the construction, installation, alteration, repair, removal and demolition of buildings, structures or portions or accessories thereof and for equipment, plumbing, electrical and other appurtenances thereof. He or she shall inspect the premises for which such applications have been received or such permits have been issued for the purpose of assuring compliance with all applicable laws, codes, ordinances, rules and regulations. The Fire Marshal/Building Inspector shall issue certificates of occupancy for the purpose of certifying that the work has been completed.
- F. The Fire Marshal/Building Inspector may require the performance of field or laboratory tests by qualified persons, service bureaus, agencies or accredited and authoritative testing laboratories whenever he or she may deem it necessary or appropriate to assure compliance with the provisions of applicable laws, codes, ordinances, standards, specifications, rules and regulations.
- G. The appropriate code enforcement officials shall be notified as soon as practicable of all working fires which involve structural damage which affects the continued occupancy of the premises or where such fire causes the death or serious injury of any person.
- H. The Fire Marshal/Building Inspector shall be authorized to recommend qualifications, training programs and criteria for the certification of inspectors should it be deemed necessary or appropriate.
- I. The Fire Marshal/Building Inspector is also responsible for the enforcement of all parking requirements in the Town of Henrietta.

**§ 48-8. Records and reports.**

- A. The Fire Marshal/Building Inspector shall keep permanent official records of all transactions and activities of the Department of the Fire Marshal/Building Inspector, including all applications received, permits and certificates issued, fees charged and

collected, inspection reports and notices and orders issued. All such records shall be public records open to public inspection during business hours.

- B. The Fire Marshal/Building Inspector shall annually submit to the Town Board a written report and summary of all business conducted by the Department of the Fire Marshal/Building Inspector, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests and appeals or litigation pending.

**§ 48-9. Application for building permits.**

- A. No person, firm or corporation shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure or cause the same to be done without first obtaining a separate building permit from the Department of the Fire Marshal/Building Inspector for each such building or structure, except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.
- B. Application for a building permit shall be made to the Fire Marshal/Building Inspector on forms provided by the Department of the Fire Marshal/Building Inspector and shall contain the following information:
  - (1) A description of the land on which the proposed work is to be done.
  - (2) A statement of the use or occupancy of all parts of the land and of the building or structure.
  - (3) The valuation of the proposed work.
  - (4) The full name and address of the owner and of the applicant and the names and addresses of their responsible officers if any of them are corporations.
  - (5) A brief description of the nature of the proposed work.
  - (6) A duplicate set of plans and specifications, as set forth in Subsection D of this section.
  - (7) Such other information as may reasonably be required by the Fire Marshal/Building Inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances and regulations.
- C. Application shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work where such application is made by a person other than the owner. It shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
- D. Each application for a building permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan drawn to scale, showing the location and size of all proposed new structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining streets, walks and alleys and, where required by the Fire

Marshal/Building Inspector, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data.

- E. Plans and specifications shall bear the signature of the person responsible for the design and drawings.
- F. The Fire Marshal/Building Inspector may waive the requirement for filing plans.
- G. Amendments to the application or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Fire Marshal/Building Inspector.

**§ 48-10. Issuance of building permits.**

- A. The Fire Marshal/Building Inspector shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He shall approve or disapprove the application within a reasonable time.
- B. Upon approval of the application and upon receipt of the legal fees therefor, the Fire Marshal/Building Inspector shall issue a building permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto.
- C. Upon approval of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the files of the Department of the Fire Marshal/Building Inspector, and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Fire Marshal/Building Inspector or his authorized representative at all reasonable times.
- D. If the application, together with the plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable building regulations, the Fire Marshal/Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Fire Marshal/Building Inspector shall cause such refusal, together with the reasons therefor, to be transmitted to the applicant in writing.
- E. The Town shall not issue a building permit without obtaining from the permit applicant either:
  - (1) Proof duly subscribed that workers' compensation insurance and disability benefits coverage issued by an insurance carrier in a form satisfactory to the Chair of the Workers' Compensation Board as provided for in § 57 of the Workers' Compensation Law is effective; or
  - (2) An affidavit that such permit applicant has not engaged an employer or any employees as those terms are defined in § 2 of the Workers' Compensation Law to perform work relating to such building permit.

**§ 48-11. Performance of work under building permit. <sup>2</sup>**

- A. A building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of 18 months after the date of its issuance.
- B. The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable building laws, ordinances or regulations. All work shall conform to the approved application, plans and specifications, except that no building permit shall be valid insofar as it authorizes the performance of work or the use of materials which are not in accordance with the requirements of the applicable building regulations.
- C. The Town Board may grant a permit extension where an extension would not conflict with the best interests of the Town, including the public health, safety and welfare. Application for an extension must include confirmation from the architect/engineer of record that the plans and specifications remain in compliance with the New York State Uniform Fire Prevention and Building Code in force at the time the extension is applied for.
- D. Enforcement of building permits shall be administered by the Building and Fire Prevention Department.

**§ 48-12. Permit fees.**

See current schedule approved by the Town Board.

**§ 48-13. Revocation of building permit.**

The Fire Marshal/Building Inspector may revoke a building permit theretofore issued and approved in the following instances:

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

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2. Editor's Note: Amendments pending adoption.

**§ 48-14. Stop orders; penalties for offenses.**

- A. Whenever the Fire Marshal/Building Inspector has reasonable grounds to believe that work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances or regulations or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued or in an unsafe and dangerous manner or otherwise contrary to a lawful direction or order given by any board, officer or official of the Town of Henrietta, including but not limited to the Fire Marshal/Building Inspector, he shall notify the owner of the property, the owner's agent or the person performing the work to suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction or any portion of the work being performed and by sending a copy of the same by registered mail.
- B. Any person, firm or corporation found to be violating the provisions of the preceding subsection shall be guilty of a violation and, upon conviction thereof, shall be fined a minimum of \$250 up to a maximum fine of \$1,000 or imprisoned for not more than one year, or both.<sup>3</sup>

**§ 48-15. Right of entry.**

Any employee of the Department of the Fire Marshal/Building Inspector, upon the showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such entry.

**§ 48-16. Certificate of occupancy.**

- A. No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Fire Marshal/Building Inspector.
- B. No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall continue to be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy shall have been issued by the Fire Marshal/Building Inspector.
- C. No change shall be made in the use or type of occupancy of an existing building unless a certificate of occupancy shall have been issued by the Fire Marshal/Building Inspector.

**§ 48-17. Inspection prior to issuance of certificate.**

- A. Before issuing a certificate of occupancy, the Fire Marshal/Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an

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3. Editor's Note: Original § 14, Application for plumbing permits, which immediately followed this subsection, was deleted 6-20-2001 by L.L. No. 3-2001. See now Ch. 198, Plumbing, Art. II, Plumbing Permit.

application has been filed for a building permit to construct, enlarge, alter, repair or change the use or occupancy, and he may conduct such inspection as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued.

- B. There shall be maintained in the Department of the Fire Marshal/Building Inspector a record of all such examinations and inspections, together with a record of findings of violations of the law.

**§ 48-18. Issuance of certificate of occupancy.**

- A. When after final inspection it is found that the proposed work has been completed in accordance with the applicable building laws, ordinances and regulations and also in accordance with the application plans and specifications filed in connection with the issuance of the building permit, the Fire Marshal/Building Inspector shall issue a certificate of occupancy upon the form provided by him. If it is found that the proposed work has not been properly completed, the Fire Marshal/Building Inspector shall refuse to issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.
- B. The certificates of occupancy shall certify that the work has been completed and that the proposed use and occupancy are in conformity with the provisions of the applicable building laws, ordinances and regulations and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

**§ 48-19. Tests to determine conformity.**

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the applicable building laws, ordinances and regulations, the Fire Marshal/Building Inspector may require the same to be subjected to tests in order to furnish proof of such compliance.



## Chapter 52

### BUILDINGS, NUMBERING OF

**§ 52-1. Display of numbers required.**

**§ 52-3. Failure to comply.**

**§ 52-2. Scope.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 12-20-1989. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Building and development — See Ch. 48.

Subdivision of land — See Ch. 245.

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**§ 52-1. Display of numbers required.**

- A. A principal building used or to be used for residential, mixed occupancy, commercial, industrial or storage purposes shall bear or display at least one set of street numbers assigned to it. In the case of new construction, no certificate of occupancy will be issued unless building numbers conforming with this section are installed.<sup>1</sup>
- B. Such numbers shall be Arabic in format with a minimum height of four inches and mounted in a secure fashion to the building's front wall or to a porch or other fixed appurtenance in front of the building in the vicinity of the main entryway or main path of travel leading to the main entrance from a public street or otherwise separately mounted in an approved manner upon the face of a wall or upon a post in the front yard of the premises. In the case wherein a group of structures or buildings carries the same address, i.e., plazas and industrial/commercial complexes, posting the address at the principal entry point to the complex, being visible as required by this section, shall be considered as being in compliance with this chapter.
- C. All street numbers shall be mounted at a height between four feet and 10 feet above the adjacent grade, street or exterior porch landing, directly beneath but never higher than 15 feet above the adjoining grade. They shall be legible as to contrasting background, arrangement, spacing, size and uniformity of the whole so that the numbers may be read with ease during daylight hours by a person possessing at least 20/40 vision, as he views the numbers from the center line of the facing street and at an elevation of five feet above the finished surface thereof. Trees, shrubs or other obstructions shall not block said street numbers.
- D. Builders or developers of new structures shall post a temporary sign on the site conforming to § 52-1B of this chapter displaying the assigned street address and lot number, if applicable.

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1. Editor's Note: Amendments pending adoption.

**§ 52-2. Scope.**

- A. The absence of house numbers or the insecure fastening or absence of any whole number thereof or the use of any number out of logical sequence for the street toward which it faces or the failure of a number to meet the elevation requirement or the visibility requirements shall be considered in violation of this chapter.
- B. Final authority for determining and assigning the number or numbers to be used upon any particular premises is vested in the Assessor.

**§ 52-3. Failure to comply. [Amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**

In case the owner of property does not place said numbers and/or remove all other numbers within 30 days after service of a notice so to do, the Fire Marshal/Building Inspector is hereby directed to place said numbers and/or remove all other numbers and to charge therefor a fee as established by the Town Board, which sum is to be collected from the owner pursuant to the provisions of the law.

## Chapter 56

### BUILDINGS, UNSAFE

§ 56-1. Applicability of state law.

§ 56-6. Filing of notice.

§ 56-2. Inspection and report.

§ 56-7. Failure to comply; action by Town.

§ 56-3. Determination by Town Board.

§ 56-8. Emergency action by Town.

§ 56-4. Contents of notice.

§ 56-9. Recovery of costs.

§ 56-5. Service of notice.

[HISTORY: Adopted by the Town Board of the Town of Henrietta 1-7-1981. Amendments noted where applicable.]

#### GENERAL REFERENCES

Building and development — See Ch. 48.

Property maintenance — See Ch. 205.

Fire prevention — See Ch. 119.

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§ 56-1. Applicability of state law. <sup>1</sup>

The provisions of this chapter shall be in addition to, and in furtherance of, the New York State Uniform Fire Prevention and Building Code, including but not limited to Sections 107 and 108 of the Property Maintenance Code of New York State.

§ 56-2. Inspection and report. [Amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]

When, in the opinion of the Fire Marshal/Building Inspector or authorized designee thereof, any structure located therein shall be deemed to be unsafe or dangerous to the public, he shall make a formal inspection thereof and report in writing to the Town Board of the Town of Henrietta his findings and recommendation in regards to its removal or repair.

§ 56-3. Determination by Town Board. [Amended 6-20-2001 by L.L. No. 3-2001]

Said Town Board shall thereafter consider said report and by resolution determine, if in its opinion the report so warrants, that said structure or building is unsafe and dangerous and order its removal or repair, if the same can be safely repaired, and further order that a notice shall be given to the person or corporation who or which owns said structure or building in the manner as hereinafter set forth.

§ 56-4. Contents of notice.

The notice shall contain the following:

1. Editor's Note: Adoption of section pending.

§ 56-4

HENRIETTA CODE

§ 56-8

- A. A description of the premises.
- B. A statement of the particulars in which the building is unsafe or dangerous.
- C. An order outlining the manner in which the building is to be made safe and secure or demolished and removed.
- D. A statement that a securing/repair or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless for good cause shown such time shall be extended.<sup>2</sup>
- E. A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice.
- F. A statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove said building the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

#### **§ 56-5. Service of notice.**

Said notice shall be served in the following manner: by personal service of a copy thereof upon the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the premises as shown by the last preceding completed assessment roll of the Town of Henrietta or, if no such person can be reasonably found, by mailing such owner by registered mail a copy of such notice directed to his last known address and, if served by registered mail, by posting a copy of such notice on the premises.

#### **§ 56-6. Filing of notice.**

A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Monroe.

#### **§ 56-7. Failure to comply; action by Town.**

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board and after the hearing, the Town Board shall provide for the repair or demolition or removal of such building or structure, as the case may be, either by Town employees or by contract.

#### **§ 56-8. Emergency action by Town. <sup>3</sup>**

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2. Editor's Note: Amendments pending adoption.

3. Editor's Note: Adoption of section pending.

§ 56-8

## BUILDINGS, UNSAFE

§ 56-9

In the event that a structure suddenly becomes unsafe or a hazard to the general public, such as in the case of a fire, flood, tornado, earthquake, or other similar event, the Town shall notify the building owner to secure the building and/or premises in such a manner as to make it safe. If the owner or a property manager is not available or is unwilling to comply, the Fire Marshal/Building Inspector, or his or her designee, shall have the authority to have the building or premises secured in a manner so as to make the building or premises safe. The building owner shall be responsible for all costs associated with securing said property. This provision will also be applicable in the case of structures that have become unsafe or hazardous to their occupants only.

**§ 56-9. Recovery of costs.**

All costs and expenses incurred by the Town in connection with the proceedings to remove or secure said buildings or structures shall either be assessed against the land on which said buildings or structures are located or may be recovered by the Town Board in a civil action pursuant to the provisions of the General Municipal Law.



## **Chapter 65**

### **CONDOMINIUM CONVERSIONS**

**§ 65-1. Adoption by reference of  
statutory provisions.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 9-7-1983.  
Amendments noted where applicable.]**

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**§ 65-1. Adoption by reference of statutory provisions.**

Pursuant to Paragraph (c) of Subdivision 2-a of § 352-e of the General Business Law of the State of New York, the Town Board of the Town of Henrietta hereby adopts the coverage provided by Subdivision 2-a of § 352-e of the General Business Law of the State of New York for the Town of Henrietta, Monroe County, New York.





## **Chapter 69**

### **CONSTABLES**

**§ 69-1. Appointment authorized.**

**§ 69-3. Powers and duties.**

**§ 69-2. Manner of appointment.**

**§ 69-4. Term of office.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 6-1-1977 by L.L. No. 1-1977. Amendments noted where applicable.]**

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**§ 69-1. Appointment authorized.**

The Town Board of the Town of Henrietta is authorized to appoint as many constables in and for the Town of Henrietta as the Town Board from time to time may determine necessary.

**§ 69-2. Manner of appointment.**

Such appointment shall be made by resolution of the Town Board.

**§ 69-3. Powers and duties.**

The powers and duties of a constable in the Town of Henrietta shall be limited to civil actions and procedures, and such constable shall function as an enforcement officer in accordance with the Uniform Justice Court Act, § 110.

**§ 69-4. Term of office.**

Constables shall serve at the pleasure of the Town Board.



## Chapter 79

### DOGS

#### ARTICLE I Dog Licenses

- § 79-1. Purpose.
- § 79-2. License required.
- § 79-3. Issuance of dog license and identification tag.
- § 79-4. Fees.
- § 79-5. Definitions.

#### ARTICLE II Control and Regulation

- § 79-6. Dogs off premises to be leashed.
- § 79-7. Animal Control Officer.

- § 79-8. Applications for dog licenses, regulations and restrictions.
- § 79-9. Seizure and disposition of dogs.
- § 79-10. Dangerous dogs.
- § 79-11. Seizure and confinement of potentially rabid dogs.
- § 79-12. Enforcement.
- § 79-13. Liability for damages.
- § 79-14. Judicial jurisdiction.
- § 79-15. Complaints.
- § 79-16. Issuance of summons.
- § 79-17. Issuance of appearance ticket.
- § 79-18. Penalties for offenses.

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 11-17-2010 by L.L. No. 1-2010.<sup>1</sup> Amendments noted where applicable.]**

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#### ARTICLE I Dog Licenses

##### § 79-1. Purpose.

The purpose of this article is to provide for the licensing and identification of dogs, the control and protection of the dog population and the protection of persons, property, domestic animals and deer from dog attack and damage.

##### § 79-2. License required.

- A. All dogs within the Town four months of age or older, unless otherwise exempted, shall be licensed by the Town.
- B. The following dogs are exempt from the licensing requirements of this article:
  - (1) Dogs harbored within the Town which are owned by a resident of New York City and licensed by the City of New York, for a period of 30 days;

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1. Editor's Note: This local law superseded former Ch. 79, Dogs, which consisted of Art. I, License Fees, adopted 10-3-1979, as amended, and Art. II, Control and Regulation, adopted 11-6-1985, as amended.

- (2) Dogs harbored within the Town which are owned by a nonresident of New York State and licensed by a jurisdiction outside of New York State, for a period of 30 days; and
- (3) Dogs held at a shelter pursuant to an agreement with a county, city, town, village or duly incorporated society for the prevention of cruelty to animals, humane society or dog protective association.

**§ 79-3. Issuance of dog license and identification tag.**

- A. Upon validation by the Town Clerk, the application for a dog license shall become a license for the dog or dogs described therein. Each license shall be valid for a period of one year, shall expire on the last day of the last month of its term and shall be nontransferable.
- B. Upon the first issuance of a dog license, the Town Clerk shall issue an identification number for each such dog and shall provide the owner with a tag for each such dog with such identification number. In the event that an identification tag is lost, the Town Clerk, upon request of the owner and payment of a fee set by the Town Board, shall issue a replacement identification tag.

**§ 79-4. Fees. <sup>2</sup>**

- A. The fees for licensing of dogs pursuant to this article shall be in such amounts as the Town Board may, from time to time, establish by resolution. These fees are nonrefundable.<sup>3</sup>
- B. The fee established by the Town Board for an unspayed or unneutered dog shall be at least \$5 more than the fee for a spayed or neutered dog.
- C. Exempted from payment of the license fees are applications for a dog license for any guide, hearing, service, war, working search, detection, police and therapy dogs.
- D. In addition to the license fees established by the Town Board, each applicant for a dog license shall pay a surcharge of \$1 in the case of a spayed or neutered dog, or \$3 in the case of an unspayed or unneutered dog.

**§ 79-5. Definitions.**

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

**ANIMAL CONTROL OFFICER** — A person or persons appointed by the Town of Henrietta for the purpose of enforcing this article.

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<sup>2</sup> Editor's Note: See § A301-1, Animal Control Fee Schedule.

<sup>3</sup> Editor's Note: Amendments pending adoption.

**AT LARGE** — Any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog, unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is:

- A. Accompanied by and under the immediate supervision and control of the owner or other responsible person.
- B. A police work dog in use for police work.
- C. Accompanied by its owner or other responsible person and actively engaged in hunting or training for hunting on unposted land or on posted land with the permission of the owner of the land.

**DANGEROUS DOG** — Any dog that acts or places any person in fear of immediate bodily harm.

**DOG or DOGS** — Any male, female or neutered member of the canine family (*Canis familiaris*) over four months of age.<sup>4</sup>

**LEASHED or RESTRAINED BY LEASH** — The dog is equipped with a collar to which is attached a leash not more than eight feet long. Both collar and leash shall be of sufficient strength to restrain the dog, and the leash shall be held by a person having the ability to control and restrain the dog by means of the collar and leash.

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

**TAG** — The object issued by the Town of Henrietta and bearing the number of the license issued to the owner.

## ARTICLE II Control and Regulation

### **§ 79-6. Dogs off premises to be leashed.**

All dogs in the Town of Henrietta are hereby required to be restrained by a leash while off the owner's premises, whether such dogs are or are not tagged or licensed; provided, however, that dogs are permitted to be unleashed while off the owner's premises, when on the premises of another person with such other person's consent or when hunting in the company and under the control of a hunter or hunters. No person who owns, keeps or harbors or has the care, custody or control of any dog in the Town of Henrietta shall permit such dog to be at large or unleashed except as permitted by this article.

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4. Editor's Note: Adoption of amendments pending.

**§ 79-7. Animal Control Officer.**

The Office of Animal Control Officer is established. The Town Board may appoint one or more Deputy Animal Control Officers, all to hold office at the pleasure of the Town Board.

**§ 79-8. Applications for dog licenses, regulations and restrictions.**

- A. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk a dog license application, together with the applicable nonrefundable fees.<sup>5</sup>
- B. The dog license application shall be on a form provided by the Town Clerk and shall state the name, sex, actual or approximate age, breed, color and other identification marks of the dog; and the name, address, telephone number and e-mail address, if any, of the owner, together with any additional information deemed appropriate by the Town Clerk.
- C. The dog license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life, in which case vaccination shall not be required.
- D. In the case of a spayed or neutered dog, the application shall be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered; provided, however, that such certificate or affidavit shall not be required if the same is already on file with the Town. In lieu of the foregoing certificate or affidavit, the application may be accompanied by a statement by a licensed veterinarian that, by reason of old age or other reason, the life of the dog would be endangered by spaying or neutering, in which case the license fee for such dog shall be the same as for a spayed or neutered dog.
- E. No dog shall be permitted without a tag securely attached to a collar or harness on the dog, except for dogs which are in the field with a licensed hunter during hunting season or for the purpose of being trained for hunting.
- F. The owner of a dog shall not permit such dogs to chase motor vehicles, bicycles or pedestrians at any time.
- G. The owner of a dog shall not permit such dog to do any of the following:
  - (1) Kill or injure any other dog, cat or other domestic animal.
  - (2) Damage, deface, uproot, dig or otherwise damage any lawns, flowers, gardens or other property not belonging to the owner of such dog.
  - (3) Deposit waste on the private property of other persons.
- H. It shall be unlawful for an owner to permit a dog to howl, bark, yelp, cry, whine or conduct itself in such a manner so as to habitually or continuously disturb the peace and quiet of other persons at any time of day or night. As used in this subsection, "habitually

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5. Editor's Note: Amendments pending adoption.

or continually" means a dog howling, barking, yelping, crying or whining for repeated intervals of at least five minutes with less than one minute of interruption, which can be heard by any person, including a law enforcement officer or Animal Control Officer, from a location off the owner's or caretaker's premises.<sup>6</sup>

- I. No female dog, leashed or not, shall be allowed off the premises of the owner while such female dog is in season.
- J. It shall be unlawful for any individual to hinder or obstruct the Animal Control Officer or law enforcement officers in the enforcement of this article.
- K. No person shall refuse to deliver up to the Animal Control Officer or law enforcement officers his dog or dogs when requested to do so under the provisions of this article.
- L. No person who owns or harbors a dog shall permit the premises, structures or enclosures in which a dog is kept outside to be unclean, unsanitary or foul smelling.

**§ 79-9. Seizure and disposition of dogs.**

- A. Any dog in violation of this article may be seized at any time by the Animal Control Officer or any law enforcement officer.<sup>7</sup>
- B. If any dog is found running at large or ordered seized by a Town Justice and cannot be safely seized, the Animal Control Officer or law enforcement officer is authorized to use such force as may be necessary to capture said dog.
- C. An Animal Control Officer or law enforcement officer shall seize any unlicensed or untagged dog either on or off the owner's premises.
- D. The owner of a licensed dog may redeem the dog within five days by producing to the Animal Control Officer or the Town Clerk's office a license for the dog and by paying to the Town Clerk or Animal Control Officer the cost of the seizure and cost of boarding, as set from time to time by resolution of the Town Board. If the dog is unlicensed, a license must be obtained regardless of the age of the dog before the dog can be released by the Animal Control Officer or the Town Clerk's office. If not so redeemed, the owner shall forfeit all title to the dog, and the dog shall be adopted or euthanized.<sup>8</sup>
- E. If the dog seized bears a current license tag, the Animal Control Officer or law enforcement officer shall notify the owner of the seizure, and the owner will have five days to redeem the dog. If such notification is done by mail, the owner will have seven days to redeem the dog.<sup>9</sup>
- F. Any dog three months or older shall not be released without a current rabies vaccination. If the owner of a dog cannot provide proof of current vaccination, the Town Clerk's

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6. Editor's Note: Adoption of amendments pending.

7. Editor's Note: Adoption of amendments pending.

8. Editor's Note: Adoption of amendments pending.

9. Editor's Note: Adoption of amendments pending.

office or the Animal Control Officer will arrange with a designated animal hospital to give the dog a rabies vaccination at the owner's expense.

- G. If the dog is not claimed and is taken to the Humane Society at Lollypop Farm, the Society shall be empowered to adopt out or euthanize the dog. The Society shall submit to the Town a record of those dogs adopted or euthanized.
- H. It shall be the duty of the Animal Control Officer or law enforcement officer to seize all dogs ordered seized by the Town Justice.
- I. No action shall be maintained against the Town of Henrietta, the Animal Control Officer or any law enforcement officer or other agent of the Town to recover the possession or value of any dog or for damages for injury or compensation for the destruction of any dog seized or destroyed pursuant to this article.
- J. The Town hereby requires that all dogs adopted following seizure pursuant to this article be spayed or neutered before or after release from impoundment as required by Agriculture and Markets Law § 377-a.<sup>10</sup>

#### **§ 79-10. Dangerous dogs.**

The owner of any dog, whether on or off the owner's premises and whether leashed or not, shall at all times restrain and control such dog so as to prevent injury to persons lawfully conducting themselves onto property and so as to prevent such dogs from putting any person in fear of immediate bodily harm, provided that such person is lawfully conducting himself at the time.

#### **§ 79-11. Seizure and confinement of potentially rabid dogs.**

- A. The Animal Control Officer or any law enforcement officer is hereby authorized to seize any dog which is reported to have attacked or injured any human being. Any such dog shall be confined for 10 days for the purpose of determining whether such dog is infected by rabies and, if so affected, may be euthanized.
- B. The owner of such a dog shall, upon demand, deliver the dog to any officer authorized to seize the same and shall, upon demand, pay the Town the cost of confinement and treatment of the dog.

#### **§ 79-12. Enforcement.**

This article shall be enforced by the Animal Control Officer or any law enforcement officer.

#### **§ 79-13. Liability for damages.**

The owner of any dog who fails to keep his dog leashed or under restraint shall be held liable for all damages caused by said dog.

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<sup>10</sup>. Editor's Note: Adoption pending.



**§ 79-14. Judicial jurisdiction.**

Any Town Justice of the Town of Henrietta shall have jurisdiction to hear all actions and proceedings hereunder and of all prosecutions for violation of this article.

**§ 79-15. Complaints.** <sup>11</sup>

Any person who observes or has knowledge of a dog in violation of any section of this article may file a signed complaint, under oath, with the Animal Control Officer of the Town of Henrietta, specifying the objectionable conduct of the dog, the date thereof, the damage caused, a description of the dog and the name and residence of the owner of said dog.

**§ 79-16. Issuance of summons.**

Upon receipt by the Town Justice of any complaint filed in accordance with this article, the Town Justice shall summon the alleged owner to appear in person before him. If the summons is disregarded, the Justice may permit the filing of an information and issue a warrant for the arrest of such person.

**§ 79-17. Issuance of appearance ticket.**

The Animal Control Officer, having reasonable cause to believe that a person has violated this article, shall issue and serve upon such person an appearance ticket for such violation. The appearance ticket shall be in the form prescribed by the Town Board of the Town of Henrietta by resolution.

**§ 79-18. Penalties for offenses.** <sup>12</sup>

Any person who violates or knowingly permits a violation of this article shall be guilty of an offense and shall be subject to a fine of not less than \$25 for the first violation; except that where the person was found to have violated this article within the preceding five years, the fine may be not less than \$50, and where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not less than \$100 or imprisonment for not more than 15 days, or both. Each separate offense shall constitute a separate additional violation. In addition, a dog found to be dangerous may be ordered destroyed at the discretion of the court.

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11. Editor's Note: Adoption of amendments pending.

12. Editor's Note: Adoption of amendments pending.



## **Chapter 81**

### **DONATION BINS**

**§ 81-1. Definitions.**

**§ 81-4. Fees.**

**§ 81-2. Permit required.**

**§ 81-5. Penalties for offenses.**

**§ 81-3. Maintenance, placement and insurance requirements.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Property maintenance — See Ch. 205.  
Junk storage — See Ch. 209.

Solid waste — See Ch. 234.

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**§ 81-1. Definitions.**

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

**DONATION BIN OR CONTAINER** — Any enclosed receptacle or container made of metal, steel or a similar material or a similar product designed or intended for the donation and the temporary storage of clothing, toys or other items.

**§ 81-2. Permit required.**

Donation bins and/or containers must receive a permit from the Fire Marshal/Building Inspector before being placed anywhere within the Town limits.

**§ 81-3. Maintenance, placement and insurance requirements.**

- A. Donation bins or containers must be noncombustible and be able to be closed and locked if necessary.
- B. The size of the bin or container will be limited based on the location and items being received.
- C. Bins or containers must be emptied on a regular basis so as to not exceed their capacity. In the event of noncompliance, charges to clean them up by the Town will be assessed against the permittee and/or a fine will be imposed.
- D. The applicant must provide adequate liability insurance insuring the Town and/or owner of the property upon which the bin is approved for placement, to cover any potential damage, fire, or other incident that may be caused by the bin.
- E. The location of bins or containers will be part of the permitting process and determined so as to eliminate any setback issues and to assure a proper nondisruptive location.

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- F. Donation bins or containers shall be maintained such that their exterior appearance is kept free of rust and their exteriors are otherwise maintained such that they are repainted or refinished where paint has significantly faded or chipped away, etc.

**§ 81-4. Fees.**

A permit fee as set from time to time by resolution of the Town Board will be imposed to cover the cost of the application process and management of the maintenance potential.

**§ 81-5. Penalties for offenses.**

In the event that a donation bin or container is placed without a permit as required by this chapter, the bin owner and/or owner of the property on which the bin is placed will be subject to a fine not to exceed \$250, 15 days' imprisonment, or both, in addition to the costs incurred by the Town in removing the donation bin or container.

## Chapter 84

### DRAINAGE

#### ARTICLE I Cellar Drainage

- § 84-1. Title.
- § 84-2. Purpose.
- § 84-3. Drainage system required; sump pumps.
- § 84-4. Liability.
- § 84-5. Compliance required prior to issuance of building permits.
- § 84-6. Enforcing official.
- § 84-7. Penalties for offenses.

#### ARTICLE II Drainage Control

- § 84-8. Title.
- § 84-9. Purpose.
- § 84-10. Definitions.
- § 84-11. General requirements.
- § 84-12. Design of drainage facilities.

- § 84-13. Residential manhole covers.
- § 84-14. Easements for drainage facilities.
- § 84-15. Drainage plans.
- § 84-16. Construction plans.
- § 84-17. Ownership and maintenance of storm laterals.
- § 84-18. Cash deposit, letter of credit or performance bond.
- § 84-19. Liability.
- § 84-20. Penalties for offenses.

#### ARTICLE III Drainage Onto Neighboring Properties

- § 84-21. Drainage from gutters and downspouts.
- § 84-22. Drainage onto adjoining properties.
- § 84-23. Roof drainage.
- § 84-24. Penalties for offenses.

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

#### GENERAL REFERENCES

Building and development — See Ch. 48.  
Flood damage prevention — See Ch. 125.  
Plumbing — See Ch. 198.

Sewers — See Ch. 219.  
Water — See Ch. 285.  
Design standards for storm drainage — See Ch. A300.

#### ARTICLE I Cellar Drainage [Adopted 1-2-1963]

##### § 84-1. Title.

This article shall be known as the "Henrietta Cellar Drainage Ordinance."

**§ 84-2. Purpose.**

The purpose of this article is to remedy and prevent the flooding of sanitary and storm drains and to protect the health, safety and property of the people by requiring proper drainage of cellars in residences.

**§ 84-3. Drainage system required; sump pumps. [Amended 3-20-1963; 9-19-1973; 9-7-1977]**

- A. Every structure below grade hereafter erected shall have a sump pit installed, the bottom of which shall be not less than two feet below the surface of the basement floor and no less than 18 inches in diameter. Perforated drain tiles, or an approved equal, four inches inside diameter shall be installed just outside or inside the footings of the basement exterior walls and at least six inches below the basement floor, and such drain tiles shall be drained into the sump pit. The tile system shall be properly installed and protected from siltation. In areas where high or extensive groundwater is evident, tiles shall be provided inside and outside the footings as described above. Drain tiles are to be placed around entire perimeter of footings with both ends of tile connected to the sump pit. The grade of the tile is to permit drainage from both ends of the pipe. In areas of high or extensive groundwater, if tiles are placed inside and outside of footings and it is evident that groundwater continues to penetrate the footings and/or basement walls, weep holes are to be bored through the bottom course of block and covered with an approved material. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- B. In the sump pit, there shall be installed an automatic electrically operated Underwriters approved sump pump with a capacity of not less than 2,600 gallons per hour against a discharge head of five feet, with a one-and-one-fourth-inch discharge pipe through the basement wall and equipped with a swing check valve to prevent backflow to the sump pit. The electric motor shall not be less than 1/3 horsepower and shall be equipped with approved thermal overload protection devices.
- C. Where sump pumps are installed, they shall be connected to any available storm sewer system. Basement floor drains, if installed, shall be connected as required by the Monroe County Health Department. When discharge into a storm sewer is impossible, necessary precautions shall be taken to prevent the discharge to flow on any neighboring property by means of proper grading of the ground surface and by proper location of the discharge pipe.
- D. In structures where the elevation of the point of proposed drainage discharge in relation to the lowest point of the cellar drainage system is such that gravity flow is possible, such a system may be used only with the approval of the Director of Engineering and Planning. The minimum allowable grade shall be 1/4 inch per foot (2%). Where gravity flow is allowed, a check valve shall be installed to prevent any backflow into the cellar drainage system.
- E. Where the topography, soil and water conditions, as shown by the certificate of an engineer or architect duly licensed by the State of New York, in the case of a particular building or group of buildings, are such as to permit drainage of the cellars in such building or buildings by means other than those required by Subsections A, B and C of

this section, the owner of the premises or builder of such buildings may make application to use other methods of cellar drainage. Such other methods shall be shown on a map and plan thereof, showing the location and design of the proposed cellar drainage facilities and the location of said buildings, prepared by a licensed architect or engineer, which map and plan shall accompany the said certificate. Upon the written recommendation of the Fire Marshal/Building Inspector and after the filing of the required documents, the Town Board may adopt a resolution authorizing the Fire Marshal/Building Inspector to issue a building permit or permits for the construction of such building or group of buildings with drainage facilities as shown on said map, plan and certificate or the Town Board may modify said plan and approve issuance of a permit in accordance with such modified plan or may deny such relief. **[Amended 2-15-2006 by L.L. No. 1-2006]**

**§ 84-4. Liability. [Added 9-7-1977]**

The approval of plans for proposed cellar drainage systems shall not constitute a representation, guaranty or warranty of any kind or nature by the Town of Henrietta or by any officer or employee thereof of the safety, operation, adequacy or intent of the proposed facilities and shall create no liability upon or cause for action against such public body, officer or employee for any damage that may result from construction pursuant thereto.

**§ 84-5. Compliance required prior to issuance of building permits. [Amended 2-15-2006 by L.L. No. 1-2006]**

No building permit for a residential building shall hereafter be issued by the Henrietta Fire Marshal/Building Inspector or other official charged with the issuance of building permits unless the plans for construction submitted with the application for the permit shall include provisions for compliance with this article, and such Inspector shall not issue any certificate of occupancy for such residence unless and until the requirements of this article have been complied with.

**§ 84-6. Enforcing official. [Amended 2-15-2006 by L.L. No. 1-2006]**

This article shall be enforced by the Fire Marshal/Building Inspector of the Town of Henrietta.

**§ 84-7. Penalties for offenses. [Added 6-20-2001 by L.L. No. 3-2001]**

Any person who shall violate any provision of this article, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation.

ARTICLE II  
**Drainage Control**  
**[Adopted 10-20-1971]**

**§ 84-8. Title.**

This article shall be known as the "Town of Henrietta Drainage Control Law."

**§ 84-9. Purpose.**

The provisions herein contained are for the purpose of achieving and maintaining an adequate, efficient and balanced drainage and flood prevention system coordinated with existing and projected land uses and in compliance with minimum protection levels to be integrated with all public works planning, open land uses, conservation objectives, watershed management and any community-inspired proposals designed to promote the public welfare but not prejudicial to or inconsistent with the primary purpose of adequate drainage and flood hazard prevention requirements.

**§ 84-10. Definitions.**

Certain terms used herein shall be defined as follows:

**AVERAGE RECURRENCE INTERVAL** — The average interval in years between peak stream flows or rainfall intensity of a given magnitude, determined statistically or measured hydrologically over a base period of time.

**COUNTY** — Monroe County.

**DEVELOPER** — The actual owner or owners of the land and/or a person, firm or corporation who or which shall develop or use land within the Town in such a manner that in any way affects the storm- or surface water drainage characteristics of the property developed or used. The term "developer" shall include municipal, charitable and educational corporations, institutions or associations.

**DEVELOPMENT** — Any improved land use, including residential, commercial, industrial, institutional or recreational.

**DRAINAGE SYSTEM** — A network consisting of any combination or type of open channels, holding basins and enclosed facilities employed to convey the runoff of natural waters. **[Amended 9-7-1977]**

**ENCLOSED DRAINAGE SYSTEM** — A network of artificial conduits and pipe constructed to convey the runoff of natural waters.

**ENCROACHMENT LIMIT** — The boundary of a maintenanceway easement adjacent to a drainage channel within which no building or structure shall be erected or trees, bushes or other plantings planted which shall interfere with the maintenance of the drainage channel.



**FLOOD HAZARD** — Overflow water having sufficient velocity to transport debris, to scour the surface soil or to dislodge or damage structures or contents. It also indicates erosion of the banks of watercourses.

**INUNDATION** — Standing water or water in motion of sufficient depth to damage property due to the mere presence of or momentary contact with water, or to the deposition of silt.

**OPEN DRAINAGE SYSTEM** — A network of natural streams, constructed channels, ditches and detention/retention areas employed to convey and control the runoff of natural waters.

**[Amended 9-7-1977]**

**TOWN** — The Town of Henrietta.

**TOWN DIRECTOR OF ENGINEERING AND PLANNING** — The Town of Henrietta Director of Engineering and Planning, or his consultant.

**TOWN DRAINAGE REPORT** — A report titled "Primary Requirements for Drainage Planning - Drainage Study, Stage Two" by the Monroe County Planning Council.

#### **§ 84-11. General requirements.**

- A. Developments shall be protected from flood hazard and inundation by stormwater, springs and other surface waters. The design and construction of drainage systems shall be such that watercourses traversing the development and natural water emanating from within the development will be carried through and off the development without injury to improvements, building sites or buildings existing or to be installed within or adjacent to the tract. Drainage water entering the development shall be received and discharged at preapproved locations and at a slower rate than which existed prior to construction of the drainage facilities within the development. The design of drainage facilities within the development shall be such that they will conform to the ultimate drainage requirements of the land uses within the development watershed. The discharged flow at the downstream area of the development shall be conducted in drainage facilities such that the flow effects shall be restored as near to predevelopment conditions as possible prior to leaving the development area or reasonably distant therefrom. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- B. All domestic and industrial sewage, as defined by Chapter 219, Sewers, Article II, Sewer Use, shall be excluded from all drainage systems as herein defined.
- C. Drainage easements and additional areas as dedicated under these provisions need not be fenced but shall be identified by monuments, acceptable to the Town Director of Engineering and Planning, set at an angle point and at such other locations which allow intervisibility.

#### **§ 84-12. Design of drainage facilities.**

- A. Hydrologic.
  - (1) The drainage channels for watercourses numerically identified in the Town drainage report shall be provided to accommodate not less than the minimum flows

indicated in the drainage report. These values shall be independently verified by their users using hydrologic technology recommended herein, and the hydrologic analysis thereof shall become a part of the supporting data of the proposed drainage plans. The minimum flow requirements for the ultimate channel of the watercourses shall be determined in accordance with not less than the following frequencies:

- (a) Major watercourses. Major watercourses are defined as those with a tributary drainage area between 20 square miles and four square miles. Such watercourses shall be designed for an average recurrence interval of 50 years in the determination of the ultimate channel.
  - (b) Secondary watercourses. Secondary watercourses are defined as those with a tributary drainage area of between one and four square miles. Such secondary watercourses shall be designed for an average recurrence interval of 25 years in the determination of the ultimate channel.
  - (c) Minor watercourses. Minor watercourses and drainage systems are defined as those with one square mile or less of tributary drainage area. Such watercourses and drainage systems shall be designed for an average recurrence interval of 10 years in the determination of the ultimate channel.
- (2) The capacity of the channel that will occupy the ultimate drainage easement within the development shall be based upon both the existing degree and anticipated rate of urbanization within the development watershed and the type of development possible under Chapter 295, Zoning, as the same may be modified from time to time. Wherever a development may be located within a watershed undergoing initial stages of urban development, the proposed drainage system shall adequately pass the flows that would develop from continued urbanization within the useful life of the proposed channel improvement or system. Proposed drainage systems within developments located in watersheds that may be in the advanced stages of urbanization shall be designed and constructed to pass the project design flows determined for the ultimate urbanization of the tributary watershed.
  - (3) For undeveloped areas of the tributary watershed, the percentage of surface classifications shall be based upon the Town of Henrietta's land use zoning, correlated with projected land uses developed by the Town Planning Board. Wherever a development watershed contains extensive permanent open land uses such as railroads, public parks, cemeteries and parkways, such factors may additionally be considered in determining an appropriate coefficient of runoff.
  - (4) The technology for developing design flows for major watercourses is offered in United States Geological Survey Circular No. 451 and in United States Bureau of Public Roads Hydraulic Engineering Circular No. 4 (New York). The results of such available hydrologic techniques should be correlated and a suitable urbanization factor be applied to the end result. Design flows for minor and secondary drainage systems may be determined by the developer's engineer by use of the Rational Method or an accepted modification thereof: **[Amended 9-7-1977]**

$$Q = C i A$$

Wherein:

Q = project design flow in cubic feet per second.

C = design coefficient of runoff.

i = intensity of rainfall in inches per hour.

A = tributary drainage area in acres.

- (a) Rainfall-intensity-duration frequency charts are included in the Henrietta drainage report. Copies may be obtained from the Town Director of Engineering and Planning.
- (b) The determination of values for C may generally conform to the following equation:

$$C = (\%) CI + (\%) CN$$

wherein:

CI = coefficient of runoff for impervious surfaces representing roofs, driveways, patios, sidewalks, pavements and parking areas.

CN = coefficient of runoff for natural surfaces representing grading lawn areas, garden, etc.

(%) = the percent of the area for the surface classification. The total of the percentages of surface classifications shall equal 100% of the watershed tributary to the development.

- (5) Drainage systems classed as minor and secondary shall be tested by engineering computations to pass the flow requirements of the next higher design level. If engineering computations indicate that only minor inundation of grounds around buildings results, then the system could be considered adequate.

#### B. Hydraulic.

- (1) The hydraulic design of development drainage systems shall be in accordance with modern standard procedures endorsed by the American Society of Civil Engineers (ASCE).
- (2) Hydraulic design shall conform to the latest professional manuals dealing with the many facets which constitute a comprehensive drainage system. Reference to manual sources herein are for only the principal features of drainage systems. These do not imply any limitations in the use of such references, but rather should be supplemental with all essential detailed references to assure sound design.
- (3) The hydraulic design of closed drainage systems shall conform in basic details to ASCE Manual of Engineering Practice No. 37 and such applicable manuals that would supplement or integrate advanced and proved hydraulic principles and basic

assumptions. Enclosed drainage systems shall be designed to provide complete drainage for all elements within the development and shall include all appurtenances essential for the adequate performance thereof. The size of conduits shall be selected at grades which produce a minimum velocity of three feet per second when flowing full.

- (4) The hydraulic design of open drainage systems shall conform in principle and basic details to the United States Bureau of Public Roads Hydraulic Design, Series Nos. 1, 3, 5 and 6, and such commercially published modern open-channel hydraulic references that would in the public interests assure sound design. A development grading plan, similar to the Federal Housing Administration Grading Plan, indicating a contour interval suitable for the map scale shall be provided to show detailed comprehensive and efficient surface drainage for all lots within and immediately adjacent to the development.
- C. Structural. Catch basins, manholes, inlet structures and other appurtenances placed within the development shall conform to standards approved by the Town Board. The structural design of all drainage appurtenances shall be subject to the approval of the Town Director of Engineering and Planning and shall conform to standard specifications adopted by the Town Board as the same may from time to time be amended.
- (1) Channels. The minimum center-line radius of constructed curved channels shall be at least three times the bottom width of the channel for subcritical flow. The creation of excessive numbers of curves in open channels shall be avoided by reason of the increase in friction loss and the potential erosion due to spiral flow. Outer bank protection, especially at the downstream end of the curve and to a lesser degree on the inner bank at the beginning of the curve, may be required by the Town Director of Engineering and Planning. Earth channels constructed within the development shall have side slopes of one on four or flatter, unless otherwise approved by the Town Director of Engineering and Planning. If and when paved channels are required by the Town, the design of such channels shall be approved by the Town Director of Engineering and Planning. **[Amended 9-7-1977]**
  - (2) Enclosed conduits. Except for adequate natural watercourses, all storm drainage within the development which is capable of being transmitted in a thirty-six-inch-diameter pipe shall be carried in an enclosed conduit. This size may be varied, either increased or decreased, according to topographic conditions or an economic analysis of the cost of the conduit against an equivalent open channel, including the occupied land value, provided that the ultimate selection is in the public interest. The minimum conduit size shall be 12 inches in diameter. Manholes shall be provided at all changes in grade and direction. Spacing of manholes and minimum cover of conduit shall conform to standard practice endorsed by the American Society of Civil Engineers. Inverted siphons shall not be permitted except for temporary structures.

### **§ 84-13. Residential manhole covers. <sup>1</sup>**

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**1. Editor's Note: Adoption pending.**

Residential manhole covers shall be maintained in accordance with the requirements of Chapter 219, Article II, Sewer Use, § 219-12.

**§ 84-14. Easements for drainage facilities.**

- A. Easement for enclosed conduits and appurtenances. An easement not less than 20 feet in width, sufficient to contain the enclosed conduit and appurtenances thereof and to provide working space for personnel and equipment for the servicing thereof, shall be indicated on the map of the development and designated as follows: "Drainage Easement to Town of Henrietta." Drainage easements for enclosed conduits shall, insofar as possible, be placed along or adjacent to lot boundary lines in a parallel and straight alignment.
- B. Easement for natural watercourses.
  - (1) Natural major watercourses which traverse a development shall be preserved by an easement of sufficient width, including overbanks, which will adequately pass the project design flow. The gross allowable depth of flow shall not create a flood hazard to existing or proposed developments and improvements. The channel and overbank widths, together with a minimum twenty-foot continuous maintenance way on each side, shall constitute the floodway encroachment limits with a minimum width of 100 feet. Wherever such natural watercourses are endowed with significant natural beauty and have adequate capacity or have been determined to have value for fish and wildlife, the developer may dedicate widths in addition to those required above on the map of the development with the following designation: "Easement to Town of Henrietta."
  - (2) In natural minor and secondary watercourses which contain insufficient waterway area to convey the flow from the ultimate development, but which may prove deficient only at infrequent intervals and locations, and where minor improvements could provide an adequate channel and still preserve in the main the natural channel beauty or fish and wildlife values, the developer may make such minor channel improvements as are required to provide a channel which would otherwise meet the conditions of these regulations. However, the developer shall dedicate the full width required to contain the ultimate channel, together with a minimum twenty-foot-wide continuous maintenance way on one side of the ultimate channel. When the water surface exceeds 20 feet in width, the continuous maintenance way shall be 20 feet wide at each side. The outside of the continuous maintenance way shall constitute encroachment limits. Additional widths of scenic areas and areas of natural wetlands, which for economic reasons or limited suitability would not warrant improving for urban development, may be dedicated by the developer in addition to those above. Areas offered for dedication to the Town as drainage easements, if considered of special interest to the Town by the Planning Board, may be considered by the Planning Board as dedication for municipal purposes for the purpose of § 278 of the Town Law and its authority thereunder. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- C. Easement for constructed channels and appurtenances. Earth channels constructed within the development shall have sufficient easement dedicated to contain the top width of the

channel plus a minimum twenty-foot continuous maintenance way on one side thereof for channels less than 20 feet in width at the water surface. A twenty-foot continuous maintenance way shall be provided on both sides of channels with a water surface width greater than 20 feet. The ultimate channel shall meet the flow requirements for the development of the tributary drainage area. The allowable depth of flow to pass the project design flow shall not create a flood hazard to existing and proposed developments and improvements. A minimum of one foot freeboard above the design hydraulic gradient shall be provided to contain the effects of flow transmission factors. The outside of the continuous maintenance way shall constitute encroachment limits. The easement for constructed channels shall be indicated on the map of the development and designated as follows: "Easement to Town of Henrietta."

- D. Mutual benefit drainage easements. Whenever the installation or construction of drainage swales shall be necessary so as to provide adequate drainage in a development or subdivision, the course of which shall affect or traverse one or more lots, the Town Director of Engineering and Planning may require the developer to reserve easements appropriate in size and location for the mutual benefit of the owners of the other lots of the development or subdivision. Such easements shall be specified in the deeds of conveyance by the developer to the purchasers of all lots affected thereby and shall be designated on all the plans for the development or subdivision as follows: "Drainage Easement for the Mutual Benefit of the Owners of the Other Lots of the Subdivision." [Added 9-7-1977]

#### **§ 84-15. Drainage plans.**

Before final Planning Board approval of a development plan, the developer shall submit drainage plans with a report containing sufficient data for the Town Director of Engineering and Planning to check the feasibility of the drainage system as proposed by the developer. The following data shall be included:

- A. Hydrologic (at all critical points within the development).
- (1) Tributary drainage area delineated on the map.
  - (2) Times of concentration.
  - (3) Rainfall intensity.
  - (4) Runoff coefficients.
  - (5) Design flow and protection level.
- B. Hydraulic.
- (1) The plan and profile of all drainage systems.
  - (2) Sizes and types of drainage improvements, including special structures, typical sections, easements, width and fencing.
  - (3) When required, supporting calculations for upstream and downstream channel capacities as they affect water surface levels and backwater within the

development. Such calculations shall be supported by such additional survey information as may be required to determine profile and cross section of the upstream and downstream channel reaches of the development under consideration.

- (4) A development grading plan prepared to suitable contour intervals with grading details to indicate proposed street grades and elevations, building site elevations and surface elevations at critical points throughout the development (similar to the Federal Housing Administration - type grading plan).

**§ 84-16. Construction plans.**

- A. The final construction plans for drainage disposal within the development shall conform to the provisions of these regulations, subsequent amendments thereto and any particular conditions as required by the Town Director of Engineering and Planning in approving the proposed plans and supporting data thereof. The construction plans for the drainage requirements shall be approved by the Town Director of Engineering and Planning prior to the construction of any drainage facilities within the development.
- B. The plans shall bear the certification of a professional engineer as evidence of the professional responsibility for the drainage planning within the development.
- C. All drainage construction shall be subject to adequate inspection. Any field changes which affect the intent of these provisions shall have the prior approval of the Town Director of Engineering and Planning.

**§ 84-17. Ownership and maintenance of storm laterals. <sup>2</sup>**

- A. The property owner shall be responsible for any maintenance or repair of that portion of the storm lateral that he/she owns.
- B. The portion that the property owner is responsible for shall be any drainage infrastructure not otherwise located in a Town easement and/or any Town, county or New York State right-of-way, including drainage infrastructure located between any structure on private property and the right-of-way or easement.
- C. In the event of a blocked storm lateral and the absence of an existing cleanout, the property owner shall be required to have a cleanout installed prior to any repair work by the Town. The cleanout shall be located at the junction of the existing easement or Town right-of-way and the homeowner's property.
- D. All repairs to any storm laterals in the Town of Henrietta must be made with PVC SDR-21.

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2. Editor's Note: Adoption pending.

**§ 84-18. Cash deposit, letter of credit or performance bond.**

In order to ensure the proper performance of the work to be completed under plans as approved under § 84-16 above, the Town may require a cash deposit, a letter of credit or a performance bond issued by an acceptable bonding or surety company.

**§ 84-19. Liability.**

The approval of plans for proposed drainage systems and flood hazard prevention requirements shall not constitute a representation, guaranty or warranty of any kind or nature by the Town of Henrietta or by an officer or employee thereof of the safety, operation, adequacy or intent of the proposed facilities and shall create no liability upon or cause for action against such public body, officer or employee for any damage that may result from construction pursuant thereto.

**§ 84-20. Penalties for offenses. [Added 6-20-2001 by L.L. No. 3-2001]**

Any person who shall violate any provision of this article, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation.

ARTICLE III  
**Drainage Onto Neighboring Properties**  
 [Adoption pending]

**§ 84-21. Drainage from gutters and downspouts.**

- A. Concentrated flow from a concrete gutter or a downspout shall not be permitted to flow onto an adjacent neighbor's property.
- B. Review by Town. In furtherance of Subsection A, the Town shall review new developments and the location of downspouts.
  - (1) The flow from a concrete gutter coming from a new development shall be identified by the developer and reviewed by Town staff prior to project approval.
  - (2) The locations of downspouts shall be reviewed by Town staff prior to the issuance of a certificate of occupancy to ensure that drainage is not unfairly discharged onto neighboring properties. Alternatively, where feasible, new dwellings may be required to have their downspouts connected to a six-inch-diameter storm lateral.
  - (3) When residential subdivisions are reviewed by Town staff, grading plans shall be submitted to ensure that drainage swales are provided to prevent runoff from impacting neighboring properties.
  - (4) The Town's review shall not act as any warranty or guaranty that drainage will not violate this section or otherwise create a nuisance or damages after construction of any development. If, after Town review and completion of construction, drainage



should ultimately violate this section or otherwise create a nuisance or damages, the owner of the offending property shall be required to remediate such issues.

**§ 84-22. Drainage onto adjoining properties.**

- A. Runoff from new developments shall not be allowed to drain onto adjacent properties unless the runoff is less than preexisting conditions, is a nonconcentrated flow, and does not significantly alter the existing drainage patterns.
- B. No materials may be stored, land disturbed or other work done to block drainage or to divert or cause runoff of groundwater or stormwater in an unnatural fashion.
- C. No shed, garden, swing set, playground, pool, yard waste, refuse, or similar structure, feature or substance shall be placed in drainage swales that are used to convey runoff. Before a building permit is issued for the construction of a fence, pool, or shed, the location of the fence, pool or shed should be reviewed by Town staff to ensure that existing drainage patterns are not blocked.
- D. Sump pump discharges should be directed away from adjacent properties. Whenever possible, sump pump discharges should be connected to a storm sewer system.
- E. A drainage report, with supporting calculations, and a drainage plan shall be required for any new development if drainage is being allowed to flow onto adjacent properties.

**§ 84-23. Roof drainage.**

Roof stormwater drainage shall be discharged in such a manner as to not flow onto adjacent properties. Concentrated water flow generated by downspouts, sump pumps, concrete gutters and drainage swales shall not be directed in such a manner as to allow stormwater to dissipate within the confines of the property or so as to convey the stormwater directly to an existing drainageway located, at least in part, on the property.

**§ 84-24. Penalties for offenses.**

Any person who shall violate any provision of this article shall, upon conviction thereof, be fined in an amount not to exceed \$250 or be imprisoned for not more than 15 days, or both. Each day's continued violation, after notice from the Town of Henrietta, shall constitute a separate and additional violation.



## **Chapter 94**

### **ELECTRICAL STANDARDS**

**§ 94-1. Title.**

**§ 94-2. Statement of purpose.**

**§ 94-3. Compliance with National  
Electrical Code required.**

**§ 94-4. Inspectors.**

**§ 94-5. Duties of the Inspector.**

**§ 94-6. Violations.**

**§ 94-7. Penalties for offenses.**

**§ 94-8. Applicability.**

**§ 94-9. No waiver or assumption of  
liability.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 10-7-1959.  
Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Building and development — See Ch. 48.**

**Fire prevention — See Ch. 119.**

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**§ 94-1. Title.**

This chapter shall be known as the "Electrical Code of the Town of Henrietta."

**§ 94-2. Statement of purpose.**

Since there is danger to life and property inherent in the use of electrical energy, this chapter is enacted to regulate the installation, alteration or repair of wiring for electric lights, heat or power and signal systems operating on 50 volts or more in or on all real property within the Town of Henrietta.

**§ 94-3. Compliance with National Electrical Code required. [Amended 6-20-2001 by L.L. No. 3-2001]**

All electrical installations heretofore mentioned shall be made in conformity with the requirements of the National Electrical Code except where the provisions of this chapter or any other local law, ordinance or building code of the Town of Henrietta<sup>1</sup> shall differently prescribe, in which event compliance with the provisions of such local law, ordinance or building code shall be recognized as proper compliance with this chapter. The requirements of the National Electrical Code shall be known as "National Fire Protection Association Pamphlet No. 70 (NFPA 70)," approved as an American National Standard on August 6, 1998, and as amended from time to time.

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**1. Editor's Note: See Ch. 48, Building and Development.**

**§ 94-4. Inspectors. [Amended 8-15-1984]**

The Chief Inspector and each of the duly appointed Inspectors of the New York Board of Fire Underwriters, or other electrical inspection firm or agency approved by the Town Board, are hereby authorized and deputized as agents of the Town of Henrietta to make inspections and reinspections of all electrical installations heretofore and hereafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspections be a charge against the Town of Henrietta.

**§ 94-5. Duties of the Inspector.**

- A. It shall be the duty of the Inspector to report in writing to the Fire Marshal/Building Inspector, whose duty it shall be to enforce all the provisions of this code, all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code and all local laws, ordinances and the building code as referred to in this chapter, insofar as the same apply to electrical wiring. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- B. The Inspector shall make inspections and reinspections of electrical installations in and on properties in the Town of Henrietta upon the written request of an authorized official of the Town of Henrietta or as herein provided. The Inspector is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment in and on properties within the Town of Henrietta where he deems it necessary for the protection of life and property.
- C. In the event of an emergency, it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Inspector to furnish written reports to the proper officials of the Town of Henrietta and owners and to lessees of property where defective electrical installations and equipment are found upon inspection.
- D. He shall authorize the issuing of reports to the proper officials of the Town of Henrietta and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection.
- E. He shall authorize the issuing of a certificate of compliance be sent to the Town of Henrietta to the attention of the Fire Marshal/Building Inspector. **[Amended 2-15-2006 by L.L. No. 1-2006]**

**§ 94-6. Violations. [Amended 8-15-1984]**

It shall be a violation of this chapter for any person, firm or corporation to install or cause to be installed or to alter or repair electrical wiring for light, heat or power in or on properties in the Town of Henrietta until an application for inspection has been filed with the New York State Board of Fire Underwriters or other electrical inspection firm or agency approved by the Town Board. It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source or electrical energy supply prior to the issuance of a temporary certificate, or a certificate of compliance, by the New York Board of Fire Underwriters or other electrical inspection firm or agency approved by the Town Board.

**§ 94-7. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

Any person, firm or corporation who or which shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall be guilty of an offense and, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250, and each day on which such violation continues shall constitute a separate offense.

**§ 94-8. Applicability.**

The provisions of this chapter shall not apply to the electrical installations in mines, ships, railway cars or automotive equipment or the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility and located outdoors or in buildings used exclusively for that purpose. This chapter shall not apply to any work involved in the manufacture, assembly, test or repair of electric machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as his or its principal business. It shall not apply to any building which is owned or leased in its entirety by the government of the United States or the State of New York.

**§ 94-9. No waiver or assumption of liability.**

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electric wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the Town of Henrietta or the New York State Board of Fire Underwriters be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.



## **Chapter 103**

### **ENVIRONMENTAL QUALITY REVIEW**

**§ 103-1. Definitions.**

**§ 103-2. Compliance required.**

**§ 103-3. Types of actions.**

**§ 103-4. Application fee.**

**§ 103-5. Preparation of draft  
environmental impact statement.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 1-18-1978 by L.L. No. 1-1978; amended in its entirety at time of adoption of Code. Subsequent amendments noted where applicable.]**

#### **GENERAL REFERENCES**

**Building and development — See Ch. 48.**

**Drainage — See Ch. 84.**

**Flood damage prevention — See Ch. 125.**

**Subdivision of land — See Ch. 245.**

**Zoning — See Ch. 295.**

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**§ 103-1. Definitions.**

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

**SEQR —** The State Environmental Quality Review, as prescribed by Part 617 of Title 6 of the New York Codes, Rules and Regulations and the New York Environmental Conservation Law.

**TOWN —** The Town of Henrietta.

**§ 103-2. Compliance required.**

No decision to carry out or approve an action other than an action listed in § 103-3B hereof or in Section 617.5 of Title 6 of the New York Codes, Rules and Regulations as a Type II action shall be made by the Town Board or by any department, board, commission, officer or employee of the Town until there has been full compliance with all requirements of this chapter and Part 617 of Title 6 of the New York Codes, Rules and Regulations; provided, however, that nothing herein shall be construed as prohibiting:

- A. The conducting of contemporaneous environmental, engineering, economic feasibility or other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action which do not commit the Town to approve, commence or engage in such action; or
- B. The granting of any part of an application which relates only to technical specifications and requirements, provided that no such partial approval shall entitle or permit the applicant to commence the action until all requirements of this chapter and Part 617 of

Title 6 of the New York Codes, Rules and Regulations have been fulfilled. Should multiple Town of Henrietta bodies be involved agencies with respect to an action subject to SEQR, and should those bodies not come to an agreement with regard to lead agency, the Town Board shall determine by resolution which town body, if any, shall be lead agency.

**§ 103-3. Types of actions.**

- A. Consistent with Part 617 of Title 6 of the New York Codes, Rules and Regulations and the criteria therein, the following actions, in addition to those listed in Section 617.4 of Title 6 of the New York Codes, Rules and Regulations as Type I actions, are likely to have a significant effect on the environment:
  - (1) The construction of shopping centers, industrial centers or other large-scale developments which would have a significant effect on existing drainage patterns and surface water runoff.
- B. Consistent with Part 617 of Title 6 of the New York Codes, Rules and Regulations and the criteria therein, the following actions, in addition to those listed in Section 617.5 of Title 6 of the New York Codes, Rules and Regulations as Type II actions, are deemed not to have a significant effect on the environment:
  - (1) Cleaning or improving existing drainage channels or creeks by the Town or its approved agent to prevent standing water or potential flooding conditions.
  - (2) Roadside or park improvements for the protection or preservation of life, health, property or natural resources.
  - (3) Construction of industrial or commercial buildings and/or small-scale subdivisions after receiving approval of appropriate Town boards and other reviewing agencies.

**§ 103-4. Application fee.**

Every application for determination under this chapter shall be accompanied by a reasonable fee set forth in a separate fee schedule to be adopted by the Town Board to defray the expenses incurred in rendering such determination.

**§ 103-5. Preparation of draft environmental impact statement.**

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



- B. If the applicant decides not to submit an environmental impact report, the Town shall prepare or cause to be prepared the draft environmental impact statement or, in its discretion, notify the applicant that the processing of the application will cease and that no approval will be issued. The Town may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement or reviewing the same if it is prepared by the applicant. Such fees shall be determined as follows: an amount equal to the estimated cost to the Town for such activity and/or estimates of time and materials, cost of Town employees and/or consultants hired by the Town for the specific purpose of preparing the draft environmental impact statement.



## Chapter 109

### ETHICS

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| § 109-1. Purpose and intent.                                       | § 109-12. Recusal and abstention.  |
| § 109-2. Effect on other laws.                                     | § 109-13. Prohibition inapplicable; disclosure, recusal and abstention not required. |
| § 109-3. Definitions.  | § 109-14. Powers and duties of Board of Ethics.                                      |
| § 109-4. Conflicts of interest prohibited.                         | § 109-15. Advisory opinions.   |
| § 109-5. Standards of conduct.                                     | § 109-16. Additional powers and duties of Board of Ethics.                           |
| § 109-6. Penalties for offenses.                                   | § 109-17. Compensation of Board of Ethics.   |
| § 109-7. Board of Ethics.  | § 109-18. Staff of Board of Ethics.  |
| § 109-8. Copies to be distributed.                                 |  |
| § 109-9. Copy to be filed with state.                              |  |
| § 109-10. Appropriations and expenditures.                         |  |
| § 109-11. Disclosure of interest in legislation and other matters. |  |

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 6-18-2014 by L.L. No. 1-2014.<sup>1</sup> Amendments noted where applicable.]**

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#### § 109-1. Purpose and intent.

The Town Board of the Town of Henrietta recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees which can enhance public confidence in local government. Therefore, every effort will be made to assure the highest caliber of public administration of this Town as part of our state's important system of local government. It is the purpose of this article to implement this objective through the establishment of standards of conduct, to provide for punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the Town's officers and employees, as provided herein.

#### § 109-2. Effect on other laws.

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

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1. Editor's Note: This local law also repealed former Ch. 109, Ethics, which consisted of the following: Art. I, Code of Ethics, adopted 10-7-1970 by L.L. No. 1-1970, as amended; and Art. II, Board of Ethics, adopted 10-7-1970 by L.L. No. 2-1970.

**§ 109-3. Definitions.**

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

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

**TOWN OFFICER OR EMPLOYEE** — Any officer or employee of the Town of Henrietta, whether paid or unpaid, whether serving in a full-time, part-time, seasonal, temporary or advisory capacity.

**§ 109-4. Conflicts of interest prohibited.**

No Town officer or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his/her duties in the public interest.

**§ 109-5. Standards of conduct.**

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

of the stock of which is owned or controlled, directly or indirectly, by such officer or employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the Town in which such officer or employee serves or is employed.

- I. Each Town officer or employee shall, to the extent that he/she is cognizant thereof, disclose any interest he/she may have in legislation before the Town Board.
- J. No Town officer or employee, within two years after the termination of his/her service or employment with the Town, shall accept employment which will involve contracts with the Town which can work to his/her special advantage by virtue of his/her prior contact and relationship with the Town.
- K. No officer or employee shall, directly or indirectly, solicit any gift or accept or receive any gift having more than a nominal value, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or in any other form, from any person, firm, corporation or other entity that has a direct or indirect interest in any contract for the provision of goods or services to the Town of Henrietta or any agency thereof. The term "gift" shall be defined pursuant to New York Legislative Law § 1-c(j), as amended from time to time.
- L. No Town officer or employee shall violate any Town or departmental policy governing conduct by officers or employees, which policies have been established and promulgated by the Town Board.

#### **§ 109-6. Penalties for offenses.**

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

#### **§ 109-7. Board of Ethics.**

- A. There is hereby established a Board of Ethics consisting of five members, to be appointed by the Town Board, who shall all reside in the County of Monroe and serve without compensation and at the pleasure of the Town Board of the Town of Henrietta. A majority of such members shall be persons other than Town officers or employees, but the Board shall include at least one member who is an elected or appointed Town officer or employee of the Town of Henrietta.
- B. The Board of Ethics established hereunder shall render advisory opinions to Town officers or employees on written request and upon request of the Town Board make recommendations to such Town Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the Town officer or employee be disclosed except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics, or, if none, of the Town Attorney.

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

**§ 109-8. Copies to be distributed.**

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

**§ 109-9. Copy to be filed with state.**

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

**§ 109-10. Appropriations and expenditures.**

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

**§ 109-11. Disclosure of interest in legislation and other matters.**

- A. Whenever a matter requiring the exercise of discretion comes before a Town of Henrietta officer or employee, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself/herself, a relative or any private organization in which he/she is deemed to have an interest, the officer or employee shall disclose in writing the nature of the interest.
- B. The disclosure shall be made when the matter requiring disclosure first comes before the Town, or when the Town officer or employee first acquires knowledge of the interest requiring disclosure, whichever is earlier.
- C. In the case of a person serving in an elective office, the disclosure shall be filed with the Town Board through the Town Clerk. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

**§ 109-12. Recusal and abstention.**

- A. No Town officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he/she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself/herself, a relative, or any private organization in which he/she is deemed to have an interest.
- B. In the event that this section prohibits a Town officer or employee from exercising or performing a power or duty:
  - (1) If the power or duty is vested in a Town officer or employee as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
  - (2) If the power or duty is vested in a Town officer or employee individually, then the power or duty shall be exercised or performed by his/her deputy or if the officer or employee does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.
  - (3) If the power or duty is vested in a Town officer or employee, he/she must refer the matter to his/her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

**§ 109-13. Prohibition inapplicable; disclosure, recusal and abstention not required.**

- A. This Town code's prohibition on use of a Town position, disclosure requirements and requirements relating to recusal and abstention shall not apply with respect to the following matters:
  - (1) Adoption of the municipality's annual budget.
  - (2) Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:
    - (a) All Town officers or employees;
    - (b) All residents or taxpayers of the Town, or an area of the Town; or
    - (c) The general public; or
  - (3) Any matter that does not require the exercise of discretion.
- B. Recusal and abstention shall not be required with respect to any matter:
  - (1) Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by this code.
  - (2) Which comes before a Town officer or employee when the officer would be prohibited from acting by this code and the matter cannot be lawfully delegated to another person.

**§ 109-14. Powers and duties of Board of Ethics.**

The Board of Ethics shall have the following powers and duties:

- A. To advise and assist any local official in establishing rules and regulations relating to possible conflicts between private interests and official duties of present or former elected officials, local party officials and local officers and employees.
- B. To prepare an annual report to the Supervisor and the Town Board summarizing the activities of the Board of Ethics and recommending changes in the laws governing the conduct of local elected officials and officers and employees of the Town covered by this chapter.

**§ 109-15. Advisory opinions.**

Upon written request from any person who is subject to the jurisdiction of the Board of Ethics, the Board of Ethics shall render advisory opinions on the requirements of said provisions. An opinion rendered by the Board of Ethics, until and unless amended or revoked, shall be binding on the Board of Ethics in any subsequent proceeding concerning the person who requested the opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such opinion may also be relied upon by such person and may be introduced and shall be a defense in any criminal or civil action. Such requests shall be confidential, but the Board of Ethics may publish such opinions, provided that the name of the requesting person and other identifying details shall not be included in the publication.

**§ 109-16. Additional powers and duties of Board of Ethics.**

In addition to any other powers and duties specified by this chapter, the Board of Ethics shall have the power and duty to:

- A. Administer and enforce all the provisions of this chapter.
- B. Conduct any investigation necessary to carry out the provisions of this chapter. Pursuant to this power and duty, the Board may administer oaths or affirmations, subpoena witnesses, compel their attendance and require the production of any books or records which it may deem relevant or material.

**§ 109-17. Compensation of Board of Ethics.**

Members of the Board of Ethics shall not receive compensation but shall be reimbursed for reasonable expenses incurred in the performance of their official duties.

**§ 109-18. Staff of Board of Ethics.**

The Board of Ethics shall be empowered to request a support staff and assistance from the Town Board or Supervisor in furtherance of its duties and responsibilities.



## Chapter 119

### FIRE PREVENTION

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| <p>§ 119-1. Title; intent.</p> <p>§ 119-2. Adoption of standards.</p> <p>§ 119-3. Definitions.</p> <p>§ 119-4. Administration and enforcement.</p> <p>§ 119-5. Permits.</p> <p>§ 119-6. Inspections.</p> <p>§ 119-7. Compliance required.</p> <p>§ 119-8. Violation orders.</p> | <p>§ 119-9. Required vacation of premises.</p> <p>§ 119-10. Penalties for offenses.</p> <p>§ 119-11. Obstruction of fire lanes or fire hydrants prohibited.</p> <p>§ 119-12. Supplementary regulations.</p> <p>§ 119-13. Temporary residences.</p> <p>§ 119-14. Applicability.</p> <p>§ 119-15. Continuance of preexisting conditions.</p> <p>§ 119-16. Modification and appeals.</p> |
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**[HISTORY: Adopted by the Town Board of the Town of Henrietta 9-19-1984. Amendments noted where applicable.]**

#### GENERAL REFERENCES

<p>Alarm systems — See Ch. 13.</p> <p>Appearance tickets — See Ch. 25.</p> <p>Building and development — See Ch. 48.</p>	<p>Unsafe buildings — See Ch. 56.</p> <p>Electrical standards — See Ch. 94.</p> <p>Property maintenance — See Ch. 205.</p>
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#### § 119-1. Title; intent.

- A. This chapter shall be known and cited as the "Town of Henrietta Fire Prevention Code."
- B. It is the intent of this chapter to provide for the administration and enforcement of the provisions of all laws, codes, ordinances, regulations and orders applicable to:
  - (1) The location, design, materials, construction, alteration, repair, equipment, use, maintenance, occupancy, removal and demolition of buildings, structures and appurtenances located in the Town.
  - (2) Fire prevention and firesafety regulations consistent with the nationally recognized good practice for the safeguarding, to a reasonable degree, of life and property from the hazards of fire and explosions arising from hazardous conditions in the use or occupancy of buildings or premises and from the storage and use of hazardous substances, materials and devices.

#### § 119-2. Adoption of standards.

There is hereby adopted by the Town Board of the Town of Henrietta, New York, for the purpose of prescribing regulations governing building construction and conditions hazardous to life and property from fire, explosion or other causes, the regulations and standards as set

forth in the New York State Uniform Fire Prevention and Building Code (henceforth referred to as the "Uniform Code").

**§ 119-3. Definitions.**

- A. All technical terms used in this chapter shall be defined as set forth in the Uniform Code, except as such terms may otherwise be defined in this chapter.
- B. As used in this chapter, the following terms shall have the meanings indicated:

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

**DWELLING UNIT** — One or more rooms with provisions for living, sleeping or cooking arranged for the use of one or more persons.

**FIRE MARSHAL** — As used in this chapter, the Fire Marshal, Deputy Fire Marshals and any Fire Inspector who is employed by the Town of Henrietta.

**TEMPORARY RESIDENCE** —

- (1) A property consisting of a tract of land and all tents, vehicles, buildings or other structures and installations, temporary or permanent, pertaining thereto, any part of which may be occupied by people who are provided with at least some part or portion of the facilities by the operator, owner, lessee or occupant thereof, with or without stipulated agreement as to the duration of their stay. It shall include but shall not be limited to a property occupied by adults or children, or both, primarily for educational, recreational or vacation purposes; a group of three or more cabins, trailers or houses; a property used as a labor camp; a tourist camp, motel, hotel, tourist home, boardinghouse or lodging house, apartment house or apartment complex; or other establishment comparable or equivalent thereto or notwithstanding the provision aforesaid in respect to some part or portion of the facilities.
- (2) A property providing ground areas for the parking of three or more occupied travel trailers, campers or mobile homes or the erection of tents or other shelters for overnight occupancy which is occupied or maintained for occupancy by 10 or more people.

**TRADE** — The trade of installing, charging, filling, maintaining, recharging, refilling and/or testing rechargeable fire extinguishers or fixed fire extinguisher systems.  
**[Added 3-20-2002 by L.L. No. 3-2002]**

**VIOLATION ORDER** — Any written notice prepared by a Fire Marshal given to the person, individual, partnership or corporation owning, operating or maintaining said

premises to which the notice is addressed listing any and all items which violate the Uniform Code, this chapter or any rule or regulation issued under this chapter.

**§ 119-4. Administration and enforcement.**

- A. There is hereby designated the Department of the Fire Marshal/Building Inspector to administer and enforce the New York State Uniform Fire Prevention and Building Code and this chapter. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- B. The Fire Marshal in charge of the Department of the Fire Marshal/Building Inspector as well as the Deputy Fire Marshals shall be appointed by the Town Board. The term "Fire Marshal" shall refer to a Fire Marshal or Deputy Fire Marshal(s). **[Amended 2-15-2006 by L.L. No. 1-2006]**
- C. Powers and duties of the Fire Marshal.
  - (1) Except as otherwise specifically provided by law, ordinance, rule or regulation or except as herein otherwise provided, the Fire Marshal shall administer and enforce all laws, codes, ordinances, regulations and orders applicable to fire prevention and firesafety. The Fire Marshal shall also prescribe procedures consistent with nationally recognized good practice for the safeguarding, to a reasonable degree, of life and property from hazardous conditions, from fire arising from the use or occupancy of buildings and from the storage of hazardous substances, materials and devices.
  - (2) The Fire Marshal may require the performance of field or laboratory tests by qualified persons, service bureaus, agencies or accredited and authoritative testing laboratories whenever he may deem it necessary or appropriate to assure compliance with the provisions of applicable laws, codes, ordinances, standards, specifications, rules and regulations.
  - (3) The Fire Marshal shall investigate the cause, origin and circumstances of every fire occurring in the municipality which is of a suspicious nature or which involves loss of life or injury to persons or by which property has been substantially damaged or destroyed. Such investigation shall commence immediately following extinguishment of such fire, with the approval of the fire officer in charge, and if it appears that such fire is of a suspicious origin, the Chief of the Fire District shall be immediately notified of the facts. The Fire Marshal shall preserve immediately any physical evidence, shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the prosecution of the case. The foregoing shall be without prejudice to the right of the Fire Chief to notify the proper authorities directly and to turn over any evidence gathered at the scene to the proper authorities.
  - (4) The Fire Marshal shall be notified immediately of all working fires which involve structural damage which affects the continued occupancy of the premises.
  - (5) The Fire Marshal shall keep official records of all transactions and activities of the Department, including records of all applications received, all permits and

certificates issued, fees charged and collected, inspections conducted and notices and orders issued. **[Amended 2-15-2006 by L.L. No. 1-2006]**

- (6) The Fire Marshal may adopt procedures for the administration and enforcement of this chapter and the Uniform Code.

**§ 119-5. Permits.**

- A. Upon payment of the fee, as prescribed in the schedule of fees adopted by the Town Board, permits shall be issued by and bear the name and signature of the Fire Marshal and shall specify:
- (1) The activity or operation for which the permit is issued.
  - (2) The address or location where the activity or operation is to be conducted.
  - (3) The name and address of the permittee.
  - (4) The permit number and date of issuance.
  - (5) The period of permit validity.
- B. Permits shall not be transferable, and any change in activity, operation, location, ownership or use shall require a new permit.
- C. Permits shall continue until revoked or for a period of time designated at the time of issuance, not to exceed one year. An extension of the permit time period may be granted, provided that a satisfactory reason can be shown for failure to start or complete the work or activity authorized within the required time period. Permits issued for one year shall be renewed yearly upon application therefor and the payment of the permit fee as hereby required.
- D. Permits shall be obtained for the following:
- (1) Acetylene generators: to operate an acetylene generator having a calcium carbide capacity exceeding five pounds.
  - (2) Automobile tire rebuilding plants: to operate an automobile tire rebuilding plant.
  - (3) Automobile wrecking yards: to operate an automobile wrecking yard.
  - (4) Bowling establishments: for bowling pin refinishing and bowling lane resurfacing operations involving the use and application of flammable or combustible liquids or materials.
  - (5) Cellulose nitrate motion-picture film: to store, keep or have on hand more than 25 pounds of cellulose nitrate motion-picture film.
  - (6) Cellulose nitrate plastics (pyroxylin):
    - (a) To store, keep or have on hand more than 25 pounds of cellulose nitrate plastics (pyroxylin).

- (b) To manufacture articles of cellulose nitrate plastics (pyroxylin), which shall include the use of cellulose nitrate plastics (pyroxylin) in the manufacture or assembling of other articles.
- (7) Combustible fibers: to store, handle or use combustible fibers in quantities in excess of 100 cubic feet, except agricultural products on a farm.
- (8) Combustible materials: to store combustible materials, including but not limited to empty combustible packing cases, boxes, barrels or similar containers, rubber tires, baled cotton, rubber, cork or other similar materials in excess of 2,500 cubic feet gross volume, on any premises.
- (9) Compressed gases:
  - (a) To store, handle or use at normal temperatures and pressures more than:
    - [1] Two thousand cubic feet of flammable compressed gas; or
    - [2] Six thousand cubic feet of nonflammable compressed gas.
  - (b) To store, handle or use any quantity of liquefied natural or hydrogen gas.
- (10) Cryogenics: to store, handle or use cryogenic fluids, except cryogenics used as a motor fuel and stored in motor vehicle tanks, as follows:
  - (a) Production, sale or storage of cryogenic fluids.
  - (b) Storage or use of flammable cryogenic fluids, cryogenic oxidizers or liquefied oxygen in excess of 10 gallons.
- (11) Dry-cleaning plants: to use in excess of four gallons of solvents or cleaning agents classified as flammable or combustible.
- (12) Dust-producing plants: to operate any grain elevator, flour, starch or feed mill, woodworking plant or plant pulverizing aluminum, coal, cocoa, plastics, magnesium, spices, sugar, sulfur or other materials producing potentially explosive dust.
- (13) Explosive ammunition and blasting agents:
  - (a) To manufacture, possess, store, sell or otherwise dispose of explosives and blasting agents.
  - (b) To use explosives or blasting agents.
  - (c) To operate a terminal for handling explosives or blasting agents.
- (14) Flammable and combustible liquids:
  - (a) To store, handle or use flammable liquids in excess of five gallons inside dwellings or in excess of 10 gallons outside of any building. This provision shall not apply to liquids in the fuel tank of a motor vehicle, aircraft, portable or stationary engine, boat or portable heating plant or to paints, oils,

varnishes or similar flammable mixtures, when such liquids are stored for maintenance, painting or similar purposes.

- (b) To store, handle or use combustible liquids in excess of 25 gallons inside a building or in excess of 60 gallons outside of a building. This provision shall not apply to fuel oil used in connection with oil-burning equipment.
  - (c) A permit shall be obtained for the initial installation of an oil burner and a fuel oil tank used in connection therewith. A permit shall be required for the replacement of a fuel oil tank connected to an oil burner.
  - (d) For processing, blending or refining of flammable or combustible liquids.
- (15) Flammable finishing: for spraying, coating or dipping operations utilizing flammable or combustible liquids.
  - (16) Fruit-ripening process: to conduct a fruit-ripening process using ethylene gas.
  - (17) Fumigation and thermal insecticidal fogging: to conduct fumigation or thermal insecticidal fogging operations.
  - (18) Hazardous chemicals:
    - (a) To store, handle or use more than 55 gallons of corrosive liquids; or more than 50 pounds of oxidizing materials; or more than 10 pounds of organic peroxides; or more than 50 pounds of nitromethane; or 1,000 pounds or more of ammonium nitrate, ammonium nitrate fertilizers and fertilizer mixtures containing 60% or more ammonium or any amount of toxic material or poisonous gas.
    - (b) To store, handle or use any quantity of air-reactive, water-reactive or unstable materials.
  - (19) Junkyards: to operate a junkyard.
  - (20) Liquefied petroleum gas: for each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers of 500 gallons or more water capacity, and for each permanent installation, irrespective of the size of containers, made at buildings in which 20 or more persons congregate for civic, political, educational, religious, social or recreational purposes. Installers shall maintain a record of all installations and replacement of portable cylinders and shall have it available for inspection.
  - (21) Lumberyards: to operate a lumberyard.
  - (22) Magnesium: for melting, casting, heat-treating, machining or grinding of more than 10 pounds of magnesium per working day.
  - (23) Matches:

- (a) To manufacture matches.
- (b) To store matches in excess of 25 cases. (NOTE: One case equals one matchman's gross of 14,400 matches.)
- (24) Organic coatings: to perform organic coating operations utilizing more than one gallon of organic coating on any working day.
- (25) Ovens and furnaces: to operate industrial processing ovens and furnaces operating at approximately atmospheric pressures and temperatures not exceeding 1,400° F. which are heated with oil or gas fuel or which, during operation, contain flammable vapors from the material in the oven or catalytic combustion system.
- (26) Places of assembly: to maintain, operate or use a place of assembly.
- (27) Service stations and repair garages: to operate a service station or repair garage.
- (28) Storage of certain substances: to store, handle or use:
  - (a) Poison gas: any amount.
  - (b) Poison and irritant: any amount.
  - (c) Flammable solid: any amount.
  - (d) Radioactive material: any amount.
  - (e) Dangerous-when-wet material: any amount.
  - (f) Etiologic material: any amount.
- (29) Welding and cutting: to operate a welding and cutting business. A record of all locations where welding or cutting operations are performed shall be maintained and kept available for inspection by the permit holder.
- (30) Waste oil heaters: to operate, maintain or use a waste oil heater in any service station, self-service station or repair garage.
- (31) To install any solid-fuel-burning device.
- (32) Standby commercial/residential generators.<sup>1</sup>
  - (a) A building permit shall be required to install or locate any standby generator on a residential/commercial parcel, except for portable nonintegrated generators.
  - (b) Generators shall:
    - [1] Be located a minimum of four feet from any property line.
    - [2] Be installed in rear yards or side yards only.

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1. Editor's Note: Adoption pending.

- [3] Be located a minimum of three feet from any structure or per manufacturer's instructions.
  - [4] Be located on a solid, noncombustible base/pad.
  - [5] Meet all applicable regulations of the New York Uniform Fire Prevention and Building Code.
  - [6] Be installed to comply with the manufacturer's installation and use instructions.
  - [7] Be inspected by a Town of Henrietta approved third-party electrical inspection agency.
  - [8] Comply with all signage regulations as required by the New York Uniform Fire Prevention and Building Code.
  - [9] Have at least one additional sign posted at an approved pedestrian entrance to the home.
- E. Consolidated permits. When more than one permit is required for the same property or premises, a single permit may be issued listing all materials or operations covered. Revocation of a portion or portions of such consolidated permit, for specific hazardous materials or operations, shall not invalidate the remainder.
- F. Location of permits. Permits shall be kept on the property or premises covered by the permit.
- G. Revocation of permits. Permits may be suspended or revoked when it is determined that there is a violation of a condition under which the permit was issued or that there has been misrepresentation or falsification of material facts in connection with the permit application or a condition of the permit.

#### **§ 119-6. Inspections.**

- A. The Fire Marshal shall conduct periodic inspections for all buildings and premises, except the interiors of single-family dwellings, for compliance with the provisions of the Uniform Code and this chapter. Such inspections may be made at any reasonable time.
- B. If entrance to make an inspection is refused or cannot be obtained, the Fire Marshal may apply for a warrant to make an inspection to any court of competent jurisdiction.
- C. Appearance tickets. The Fire Marshal shall have the authority, pursuant to Article 150 of the Criminal Procedure Law, to issue an appearance ticket subscribed by him, directing a designated person to appear in a designated local criminal court at a designated future time in connection with the alleged commission of a designated violation of this code or any order made thereunder.



**§ 119-7. Compliance required.**

A person owning, operating, occupying or maintaining property or premises within the scope of the Uniform Code or this chapter shall comply with all the provisions of the Uniform Code, this chapter and all orders, notices, rules, regulations or determinations issued in connection therewith.<sup>2</sup>

**§ 119-8. Violation orders.**

- A. Whenever it is found that there has been a violation of the Uniform Code, this chapter or any rule or regulation adopted pursuant to this chapter, a violation order or appearance ticket may be issued to the person, individual, partnership or corporation owning, operating or maintaining the premises in which such violation has been noted.
- B. Violation orders shall be in writing, shall identify the property or premises, shall specify the violation or remedial action to be taken and shall provide a reasonable time limit for compliance with said violation notice.
- C. Violation orders and other orders or notices referred to in this chapter shall be served upon the owner or the owner's executors, legal representatives, agents, lessees, any tenant or other person occupying or controlling the premises or other person having a vested or contingent interest in the premises, either personally or by certified mail, addressed to the last known address, if any, of the owner or of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the same.

**§ 119-9. Required vacation of premises. [Amended 2-15-2006 by L.L. No. 1-2006]**

Whenever it is found that a building or structure, or part thereof, may be an imminent danger to life and safety as a result of a fire, explosion, structural instability or other hazardous situation, the Fire Marshal/Building Inspector may require the occupants of any such building or structure, or any part thereof, to vacate the premises forthwith. No person shall use or occupy such building or structure, or part thereof, until it is made safe. Except for the owner, no person shall enter premises which have been ordered vacated unless authorized to perform inspections, repairs or to demolish and remove such building or structure, or part thereof.

**§ 119-10. Penalties for offenses.**

- A. Failure to comply with any provision of the Uniform Code, this chapter, rules or regulations adopted pursuant to this chapter or a violation order shall be deemed a violation and the violator shall be liable to a fine not to exceed \$1,000, imprisonment not to exceed one year, or both, and each day such violation continues shall constitute a separate violation.<sup>3</sup>

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2. Editor's Note: The repeal of original § 119-8, Notice of violation, of the 2001 Code, which immediately followed this section, is pending adoption.

3. Editor's Note: Amendments pending adoption.

- B. An action or proceeding in the name of the Town of Henrietta may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the Uniform Code, this chapter, any rule or regulation adopted pursuant to this chapter, a violation order or a directive of the Fire Marshal to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

**§ 119-11. Obstruction of fire lanes or fire hydrants prohibited.**

- A. No person shall park, stand or stop a vehicle in a designated fire lane, except to avoid conflict with other traffic or pedestrians or in obedience to direction of a peace officer or stop sign, nor shall any person, in any manner, obstruct any fire lane or other means of access to a building or premises or otherwise obstruct a source of water or other service necessary for fire-fighting purposes.
- B. Whenever the Fire Marshal, duly authorized assistant, peace officer or law enforcement officer discovers any vehicle or other obstruction standing, parked or left in a fire lane or within 15 feet of a fire hydrant or creating an obstruction to a source of water or other service necessary to fire-fighting purposes in such a way that it may constitute a distinct hazard to life or public safety or interfere with fire-fighting activities, said vehicle will be ticketed for a parking violation and/or removed, towed away and stored. Any such removal, towing and storage as herein provided may be performed by a private towing contractor, and any and all expenses related thereto shall be at the full responsibility of the owner or person entitled to possession of said vehicle or obstructing object.

**§ 119-12. Supplementary regulations.**

Whereas the New York State Uniform Fire Prevention and Building Code makes reference to various subjects dealing with fire protection and for fire prevention practices and provides only general procedures for administering said code, it is hereby deemed necessary and appropriate to set forth additional administrative and enforcement procedures for the Town of Henrietta to enable the Fire Marshal to effectively enforce the provisions of this chapter. The specific areas of fire protection and/or fire prevention which are the subject of these additional administrative provisions are set forth herein and each subject is referenced to the applicable section of the Uniform Code where such subject is addressed.

A. Fire lanes.

- (1) All premises and buildings in the Town of Henrietta which, in the discretion of the Fire Marshal, are not accessible from the public roads shall be provided with suitable access roads and fire lanes so that all buildings on the premises are accessible. The location, size, layout and nature of said access roads and fire lanes shall be subject to the approval of the Fire Marshal. In those areas where new construction is being undertaken, suitable roads shall be constructed and maintained so as to provide access to the Fire Department and other emergency vehicles prior to the commencement of any aboveground construction.

- (2) Fire lanes for shopping centers, office buildings, places of assembly and other commercial/industrial buildings shall be a minimum of 30 feet in width, and 25 feet in width in multiple-residence districts. In the event of a conflict, the location and width of such fire lane shall be determined by the Fire Marshal so as to provide reasonable access to the building for emergency vehicles. Fire lanes shall be of such construction as determined by the Fire Marshal and shall be located so as to be accessible to the nearest public road or highway.
- (3) Fire lanes shall be clearly designated by suitable approved pole- or building-mounted signs to be provided by the owners or occupants of the premises. Failure to replace or repair damaged, rusted or faded signs within 30 days after written notice shall have been served upon the owner or occupant shall constitute a violation of this chapter.
- (4) The signs required to be posted by this chapter shall conform to the size and color requirements for parking signs as set forth in the Manual of Uniform Traffic Control Devices of the New York State Department of Transportation. In addition, said signs shall also:
  - (a) Have arrows pointing in the direction of the area designated as a fire lane.
  - (b) Be posted not more than 50 feet apart.
  - (c) Be neither of a portable or movable type, except where otherwise directed by the Fire Marshal.

B. Fire protection equipment, water supply.

- (1) The Fire Marshal and Fire Chief shall review all plans submitted to the Town of Henrietta for subdivisions, multiple residences, commercial and industrial areas, schools and churches. Such approvals shall be in line with the following standards:
  - (a) The Department of the Fire Marshal/Building Inspector or other appropriate officer is to furnish the Fire Marshal with maps or plans showing street and water main locations, together with other site information. **[Amended 2-15-2006 by L.L. No. 1-2006]**
  - (b) The Fire Marshal will be allowed 30 days for review of plans. The Fire Marshal's and Fire Chief's comments shall be plainly shown on the plans and signed by them. One complete copy of the plans shall be returned to the Fire Marshal upon final approval.
  - (c) The foregoing recommendations shall be forwarded to the appropriate governing agency for final approval in conformance with the laws as in such cases are made and provided.
  - (d) The Fire Marshal and Fire Chief will be allowed 30 days to review building plans for changes or alterations in commercial or industrial buildings where no Planning Board or Town Board review is required and to make stipulations within the guidelines set forth in the Fire Prevention Code of the Town of Henrietta.

- (2) Residential districts.
  - (a) Hydrants shall not exceed a maximum of 500 feet apart on each street in either direction and shall be located at intersections whenever possible.
  - (b) Hydrants must be installed and flow-tested before aboveground construction is commenced. Flow tests shall comply with the specifications of the Insurance Services Office of New York to produce an A-rating.
  - (c) Temporary exceptions may be made during construction by the Fire Marshal.
- (3) Multiple-residence, commercial and industrial districts.
  - (a) Hydrants shall not exceed a maximum of 300 feet apart and shall be so located that all buildings can be reached by comparatively short hose lays from more than one hydrant.
  - (b) Hydrants must be installed and flow-tested before aboveground construction is commenced. Flow tests shall comply with the specifications of the Insurance Services Office to produce an A-rating.
  - (c) No aboveground construction is to commence until an approved roadway base capable of carrying the weight of fire apparatus is installed.
  - (d) Temporary exceptions may be made by the Fire Marshal.
- (4) Fire hydrants.
  - (a) The location of public or private hydrants shall not exceed the maximum distances established by the Fire Marshal. Hydrants located in subdivisions and other residential areas shall be located at intersections whenever possible.
  - (b) In areas where new construction is being undertaken and public or private water mains and hydrants do not exist, water mains and hydrants shall be installed and be in proper operating condition prior to the commencement of any aboveground construction. Upon written application and for good cause shown, the Fire Marshal may grant temporary exceptions to this requirement, the length and extent of said temporary exception being subject to the sole discretion of the Fire Marshal. In the event that the terms and conditions of said permission are not complied with, the Fire Marshal, in his sole discretion, may revoke said permission.
  - (c) No person shall cause any obstruction to be placed within 15 feet of any public or private fire hydrant, except in the event of emergency situation with the approval of the Fire Marshal. No person, except those officially authorized to do so, shall intentionally cause snow to be placed around any public or private hydrant so as to unreasonably interfere with its use.
  - (d) Privately owned water mains and fire hydrants on property devoted to public use, including but not limited to multiple-dwelling complexes, churches, commercial buildings, schools, places of assembly and shopping centers, shall be regularly maintained and annually serviced by the owner or person

generally in charge of the subject premises. Such maintenance and annual servicing shall be conducted in accordance with generally accepted standards, and records of such annual maintenance shall be kept on the premises so that the same is available for examination.

- (e) In addition to such other penalties as may be provided for herein, should the hydrant maintenance and servicing provided for in this chapter not be carried out as required herein, the Town of Henrietta or its duly authorized agents or employees may cause said maintenance and servicing to be carried out at the expense of the owner of the subject premises. All costs and expenses incurred by the Town of Henrietta in connection therewith shall be assessed against the land on which said water mains and hydrants are located as set forth in this chapter, provided that written notice shall have been given to the owner of the premises as set forth herein. The notice shall contain the following:

- [1] A description of the premises.
- [2] A statement that the annual servicing or maintenance as required by this chapter has not been performed.
- [3] An order requiring that said servicing or maintenance be completed by a certain time and date, which date shall be not less than three working days from the date of service of the notice.

(5) Standpipe systems.

- (a) Hoses shall be inspected once a year and so noted. Valves, other than hose stations, shall be secured in the open position by means of a chain and lock.
- (b) Fire Department connections for standpipe and sprinkler systems are to be maintained accessible at all times. No large shrubbery, fences or barriers of any type shall be placed within 10 feet of connections. This shall also apply to snow removal and plowing.

C. Fire alarm systems.

- (1) Fire alarm systems shall be approved by the Fire Marshal prior to installation.
- (2) All fire alarm systems shall be tested at least monthly and records of such testing shall be maintained on the premises and be available for inspection.
- (3) All fire alarm systems shall be inspected annually by qualified service personnel, and records of such inspections shall be maintained on the premises and available for inspection.
- (4) No persons, except authorized personnel, shall fail to leave or vacate premises in which a fire alarm has activated or when there has been reported to be a fire or possible fire. No person shall reoccupy said premises until it is deemed safe by the appropriate fire or code enforcement official.

D. Commercial ovens. All new and existing equipment, when altered or changed, shall be approved by the Fire Marshal.

E. Storage and handling of hazardous liquids.

(1) General.

- (a) Portable containers for motor vehicle fuel shall be clearly marked with the name of the product contained. This marking shall have been applied to such container by the manufacturer of the same.
- (b) Underground storage tanks containing gasoline, oil or other liquid that generates a flammable vapor at normal temperature and having a maximum individual capacity of up to 12,000 gallons may be installed. The maximum aggregate capacity at any site shall not exceed 24,000 gallons in total capacity.<sup>4</sup>
- (c) The Fire Marshal or his designated representative is further authorized to order the owner or occupants of premises having hazardous liquid storage tanks located thereon to have such tanks tested by methods prescribed by the Fire Marshal to determine if such tanks are leaking, if the Fire Marshal has reasonable belief that such tanks may contain a leak.
- (d) Aboveground storage tanks for flammable and combustible liquids shall be prohibited, except as permitted by Subsection E(1)(o) of this chapter.  
**[Amended 11-6-1991]**
- (e) Underground storage tanks containing Class 1 liquids shall be prohibited in residential districts.
- (f) Installation or alteration permit. No installation, alteration or replacement of underground or aboveground tanks, pumps, piping and other equipment relating to the storage of hazardous liquids shall be commenced without first obtaining a permit therefor from the Fire Marshal.
- (g) Noncompliance with the requirements of this chapter shall be sufficient cause for the suspension or revocation by the Fire Marshal of any permit issued hereunder in this chapter.
- (h) Leaking tanks, pumps or piping shall be repaired or replaced immediately, and it shall be within the discretion of the Fire Marshal as to whether the station or facility must cease any and/or all operations while repairs or replacement are being made.
- (i) There is to be no more than one gasoline tank truck delivering flammable liquids on the premises of a gasoline service facility at any one time. Before making any deliveries to underground tanks, the driver or other authorized person shall set the brakes of the truck and shall turn off the engine of the vehicle. Evertite or OPW fill couplings, or the equivalent, must be used when

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4. Editor's Note: Amendments pending adoption.

unloading flammable liquids from tank truck to storage tank. The driver shall remain at the point of delivery to prevent spillage and overflow. In case of spillage or overflow, the Henrietta Fire District and the Town Fire Marshal shall be notified immediately.

- (j) In the event of accidental spillage or leakage of a flammable liquid in quantities of five United States gallons or greater, whether or not it may enter sewers, the Fire Department and Fire Marshal shall be notified immediately.
- (k) A sufficient quantity of stay-dry absorbent must be kept on the premises at all times for flammable liquid spills and should be used for this purpose whenever possible, instead of flushing with water.
- (l) The telephone number of the owner, lessee or station operator shall be posted on the door in a conspicuous location so that proper identification can be made in the event of an emergency.
- (m) All tanks containing flammable liquids must be tested weekly for water infiltration, and records shall be kept on the premises showing the date, hour and results of such tests. When any test shows water present in the flammable liquid, the Fire Marshal shall be immediately notified. Such water may not be removed until after notification of the Fire Marshal.
- (n) Accurate daily inventory records shall be maintained and reconciled on all Class 1 liquids and diesel fuel storage tanks for indication of possible leakage from tanks or piping. The records shall be kept at the premises, available for inspection by the Fire Marshal, and shall include, as a minimum, records showing, by product, daily reconciliation between sales, use, receipts and inventory on hand. If there is more than one tank system for any one product, the reconciliation shall be maintained separately from each tank system.
- (o) Dispensing restrictions. **[Added 11-6-1991]**
  - [1] The provisions of this subsection shall not prohibit the dispensing of Class 1 and Class 2 liquids in the open from a fuel-dispensing system supplied by an aboveground tank, not to exceed 2,000 gallons, located at commercial, industrial, governmental or manufacturing establishments and intended for fueling vehicles used in connection with their business. Such dispensing may be permitted, provided that:
    - [a] An inspection of the premises and operations has been made and approval granted by the Fire Marshal.
    - [b] The tank is safeguarded against collision, spillage and overfill to the satisfaction of the Fire Marshal.
    - [c] The tank system is listed or approved for such aboveground use by the Fire Marshal.

- [d] The tank complies with requirements for emergency relief venting and the tank and dispensing system meet the electrical classification requirements of the National Electrical Code.
- [2] Aboveground storage tanks.
  - [a] Aboveground storage tanks may be installed upon the approval of the Fire Marshal and as provided for in this subsection.
  - [b] Except as modified by the provisions of this subsection, aboveground storage tanks and their piping systems shall comply with the applicable provisions of Chapters 2 and 3 of NFPA 30, Flammable and Combustible Liquids Code.
  - [c] Only aboveground storage tanks shall be used. Tanks designed and built for underground use shall not be installed for aboveground use. All aboveground storage tanks shall be enclosed in a vault which is in compliance with Subsection E(1)(o)[4] of this section.
- [3] Tank location and capacity.
  - [a] Tanks storing Class 1 and 2 liquids at an individual site shall be limited to a maximum individual capacity of 2,000 gallons and an aggregate capacity of 4,000 gallons.
  - [b] Tanks shall be located at least:
    - [i] Twenty-five feet from the nearest important building on the same property.
    - [ii] Twenty-five feet from any fuel dispenser.
    - [iii] Twenty-five feet from the nearest side of a public way.
    - [iv] One hundred feet from any property line that is or can be built upon, including the opposite side of a public way.
  - [c] Tanks shall not be permitted on property occupied as a one- or two-family dwelling.
- [4] Vaults.
  - [a] Definition. "Vault" shall be defined as an enclosure, either above or below grade, that contains an aboveground storage tank and meets the requirements of Subsection E(1)(o)[4][b][i] and [ii].
  - [b] Requirements.
    - [i] The vault shall completely enclose each tank. There shall be no openings in the vault enclosure except those necessary for access to, inspection of and filling, emptying and venting of the tank. The walls and floor of the vault shall be constructed of reinforced concrete at least six inches (15



centimeters) thick. The top shall be constructed of noncombustible material. The top and floor of the vault and the tank foundation shall be designed to withstand the anticipated loading. The walls and floor of any vault installed below grade shall be designed to withstand anticipated soil and hydrostatic loading. The vault shall be substantially liquid-tight, and there shall be no backfill around the tank.

- [ii] Each vault and its tank shall be suitably anchored to withstand uplifting by groundwater or flooding, including when the tank is empty.
- [iii] The vault shall be designed to be wind and earthquake resistant, in accordance with good engineering practice. The vault shall be resistant to damage from the impact of a motor vehicle, or suitable collision barriers shall be provided.
- [iv] Each tank shall be in its own vault. Adjacent vaults may share a common wall.
- [v] Connections shall be provided to permit ventilation of each vault to dilute, disperse and remove vapors prior to entering the vault.

[5] Tank-filling operations.

- [a] Delivery operations shall comply with applicable requirements of NFPA 385, Standard for Tank Vehicles for Flammable and Combustible Liquids.
- [b] The delivery vehicle shall be separated from any aboveground tank by at least 25 feet.
- [c] Tank filling shall not begin until the delivery operator has determined tank ullage (available capacity).
- [d] If the delivery hose is connected directly to the tank, the fill line at the tank shall be equipped with a tight-fill device for connecting the hose to the tank to prevent or contain any spill at the fill opening during delivery operations. (Exception: A tank that has a capacity that does not exceed 1,000 gallons need not meet this requirement.)

(2) Dispensing of motor vehicle fuel.

- (a) Each service station open to the public shall have an attendant or supervisor on duty whenever the station is open for business.
- (b) Dispensation devices for Class 1 or 2 flammable liquids shall be of the type approved by the Fire Marshal.

- (c) Dispensing of Class 1 or 2 flammable liquids by persons other than the service attendant or supervisor shall be prohibited, except at the self-service island.
- (d) All dispensing units shall be equipped with the following:
  - [1] A control device which will permit the pump to operate only when the dispensing nozzle is removed from its bracket on the dispensing unit and switch for this dispensing unit is manually activated. Said control device shall also stop the pump when the nozzle has been returned to its bracket.
  - [2] A means of being kept locked or otherwise inoperable when the station is not open for business.
- (3) Service stations, in addition to the requirements set forth herein for the storage and handling of motor vehicle fuel, shall also be subject to the following:
  - (a) At the time of the application for a permit, the applicant shall submit a full site plan or instrument survey of the property, showing all tank locations, island setbacks and such other and further information that may be necessary to determine compliance with the provisions of this chapter.
  - (b) Fuel dispensing pumps and nozzles shall be confirmed to service islands with no more than three dispensing units per island, each of which dispensing unit shall utilize no more than two hoses and nozzles per unit. Approved dispensing devices, such as but not limited to coin-operated, card-operated and remote-preset types, shall be permitted, provided that the dispensing of liquids is under the direct supervision of a qualified attendant whose duties and qualifications are set forth in the standards and guidelines established by the Fire Marshal.
- (4) Self-service fuel dispensing stations, in addition to the requirements required by this chapter and the Uniform Code, shall also be subject to the following:
  - (a) The area where said liquids are actually dispensed shall be equipped with all of the following:
    - [1] A traffic mirror, of sufficient size, located on each end of each pump island to give the attendant a clear and unobstructed view of each island, said mirrors to be installed in locations acceptable to the Fire Marshal.
    - [2] A two-way communications system of the public-address type to facilitate direct and individual communication between the control room area and each pump island at all times that Class 1 liquids are being dispensed.
  - (b) Self-service gasoline station attendants shall be at least 18 years of age, properly trained and physically fit to act in an emergency. Trainees enrolled

in a school training program who are at least 16 years of age need not meet the basic age requirement.

F. Hazardous chemicals, general requirements.

- (1) The transportation of hazardous chemicals and other dangerous articles by motor vehicles shall comply with Department of Transportation regulations.
- (2) Shipments whose origin and destination are outside the Town of Henrietta are confined to the use of state highways.
- (3) Shipments of an intratown nature, either originating in or destined to a Henrietta location, shall follow a route to be designated by the Fire Marshal.

G. Explosives and blasting agents.

- (1) The storage of explosives and blasting agents is to be prohibited.
- (2) Establishment of motor vehicle routes for vehicles transporting explosives and blasting agents:
  - (a) Shipments whose origin and destination are outside the Town of Henrietta are confined to the use of state highways.
  - (b) Shipments of an intratown nature, either originating in or destined to a Henrietta location shall follow a route designated by the Fire Marshal.

H. Fire extinguisher and fixed fire suppression systems. **[Added 3-20-2002 by L.L. No. 3-2002]**

- (1) License required. No person shall engage in or conduct the trade within the Town of Henrietta without first having obtained a license therefor issued by the Fire Marshal, and without having first obtained and filed with the Fire Marshal an insurance certificate, showing coverages as may be determined by the Fire Marshal, consistent with the provisions of § 119-13H(3). The Fire Marshal may issue a license to engage in the trade which has also been issued by the City of Rochester or where the applicant is holding any other license to engage in the trade issued by another jurisdiction which the Fire Marshal determines has requirements for its issuance that are substantially similar to the licensing requirements of the City of Rochester.
- (2) Licensing of corporation or limited liability companies. A corporation or limited liability company may conduct one or more of the trade within the Town of Henrietta and shall be entitled to a license therefor, provided that one or more employees of such entity is the holder of a license duly granted as provided in this chapter. No person shall perform the trade on the behalf of such entity unless he or she is licensed hereunder.
- (3) Insurance certificate. An insurance certificate showing coverages set by resolution of the Town Board and filed in the Department of the Fire Marshal/Building Inspector shall be filed by every person or entity engaged in the trade within the Town of Henrietta. Such insurance certificate shall name the Town of Henrietta as

an additional insured. Such insurance policy shall be renewed from year to year so long as the licensee engages in the trade within the Town of Henrietta. **[Amended 2-15-2006 by L.L. No. 1-2006]**

- (4) Revocation of license. The Town Board may revoke any license issued under the authority of this chapter, provided that before such revocation a public hearing shall be held before the Town Board, upon at least 10 days' written notice from the Fire Marshal by first-class mail to the licensee, and that following such public hearing the Town Board determines that such licensee is not qualified to properly conduct the trade, or that the licensee's jurisdiction has been revoked or is otherwise no longer in effect, or that the licensee has violated the provisions of this chapter.
- (5) Penalties for offenses. Persons convicted of violating any provision of this chapter shall be subject to the penalties contained in § 119-9, Town of Henrietta Fire Prevention Code. Each day a violation continues shall constitute a separate offense hereunder.

### **§ 119-13. Temporary residences.**

- A. Compliance required. Requirements for new construction and existing construction shall comply with Subsections B through G of this section.
- B. Notice of construction, enlargement, development, improvement or conversion required. No person shall construct or enlarge for occupancy or use a temporary residence or any portion or facility thereof or develop or improve a property for occupancy and use as a temporary residence without giving written notice and filing plans as required with the Department of the Fire Marshal/Building Inspector at least 30 days before construction, conversion, development or enlargement is to begin. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- C. Fire alarm systems. All temporary residences shall have a fire alarm system which meets the requirements of this section.
  - (1) Temporary residences containing not more than 12 dwelling units.
    - (a) Fire and smoke detection. Smoke detection devices shall be installed in all common corridors and stairways. Smoke detection devices shall be installed in each dwelling unit with a minimum of one detector for each habitable level of the dwelling unit. Installation shall comply with Standard 72E of the National Fire Protection Association.
    - (b) Heat-detection devices. Heat-detection devices shall be installed in all basement levels that are used for storage, laundry facilities, etc., or where furnace equipment is located.
    - (c) Installation shall comply with Standard 72E of the National Fire Protection Association. Alerting devices shall be located so that the alarm is noticeable in all parts of the building.

- (d) Battery power is permitted if the detection device is equipped with an audible alarm to indicate low voltage in the battery.
- (2) Temporary residences containing more than 12 dwelling units.
  - (a) General requirements.
    - [1] The system shall be designed, installed and maintained in such manner as to provide adequate warning to all occupants in case of fire.
    - [2] The component parts of the system shall be designed, made and assembled for fire alarm purposes.
    - [3] The system shall be under constant electrical monitoring so that failure of the main power supply or the presence of an open or grounded circuit which prevents the normal operation of the system will be instantly and audibly indicated. Where such electrical monitoring is impracticable for certain types of alerting devices, such as vibrating bells, such alerting devices shall be connected alternately on separate circuits with a balanced distribution throughout the building. Activation of any alarm signal will automatically transmit a signal to a central station for notification of the Fire Department.
  - (b) Manual fire alarm boxes. Fire alarm systems shall:
    - [1] Have manually operated fire alarm signaling devices, be mounted in durable boxes and be designed to transmit an alarm signal to alerting devices on the premises.
    - [2] Be located in a public hall or passageway in the natural path of escape from fire and be accessible on every story without the necessity of first passing through a fire door.
    - [3] Be located within 200 horizontal feet of any room or any point on a story not divided into rooms.
    - [4] Be ready to operate at all times when activated.
    - [5] Be readily identifiable as such and have a conspicuous exterior color and label.
    - [6] Be designed and used only for fire protection purposes.
  - (c) Alerting devices. Fire alarm systems shall:
    - [1] Be provided with devices designed to sound a clear, audible alarm signal that is distinct from all signals made by other sounding devices used in the vicinity. All fire alarm sounding devices within a building shall be of the same type.
    - [2] Have sounding devices so located that the alarm is audible in all parts of the building.

- [3] Where deemed necessary by the Fire Marshal fire alarms shall also have visual signals as alerting devices; such devices shall conform to generally accepted standards.

(d) Electrical requirements. Fire alarm systems shall:

- [1] Be supplied with electrical energy from both a main source and from an auxiliary source, such as a battery supply or generator. If a generator is used as an auxiliary source, automatic transfer shall occur within 15 seconds of main power interruption.
- [2] Have circuits for the transmission of alarms used only for fire protection or other emergency purposes.
- [3] Have all wiring and equipment installed in accordance with Article 760, Fire Protective Signaling Devices, National Electrical Code, NFPA No. 70.

(e) Operation.

- [1] The trouble signal of the alarm system shall be tested daily, and records of such testing shall be maintained on the premises.
- [2] Any failure of the alarm system shall be corrected immediately.

(f) Fire and smoke detection devices.

- [1] Smoke detection devices shall be installed in accordance with Subsection C(1)(a) of this section. Battery power is permitted for smoke detectors in individual dwelling units.
- [2] Heat detection devices shall be installed in all storage rooms, furnace rooms and utility rooms.

D. Smoke stops. Corridors exceeding 100 feet in length must be provided with smoke barrier doors or smoke stops. They may be maintained in an open position if equipped with means for both manual and automatic release. For automatic release, smoke detection shall be provided on both sides of the smoke stop door. Release of the magnetic holds shall be activated by the smoke detectors, interruption of electrical power or activation of other automatic fire protection equipment. Activation of the alarm system shall close all smoke doors in the building.

E. Emergency lighting. All temporary residences shall have adequate emergency lighting in all exitways. All buildings containing one or more places of assembly shall be equipped with adequate emergency lighting in all exitways. In addition, all places of assembly space shall have adequate emergency lighting therein. Emergency lighting is not required where all guest dwelling units have a direct exit to the outside at ground level and there are no interior stairways or corridors.

F. Emergency ventilation.

- (1) Buildings 70 feet or less in height without fixed or openable windows or without ventilating openings in exterior walls shall be provided with emergency ventilation designed and installed to exhaust smoke and heat to the exterior from exits, in the event of fire, and to operate without recirculation of air.
  - (2) Buildings more than 70 feet in height shall be provided with natural or mechanical means for exhausting smoke and heat from each story. Such mechanical means shall be the building's recirculated air system, designed and installed to exhaust to the exterior without recirculation or an independent, automatic smoke-removal system.
- G. Exit stairway unlocking system. Exit stairway doors which are locked against entry to floors from stairways shall be provided with an emergency unlocking system activated automatically by interruption of electrical power or by activation of the fire alarm system. Such system shall be electrically supervised.<sup>5</sup>

#### **§ 119-14. Applicability.**

The provisions of the Uniform Code and this chapter relating to maintenance, housekeeping and behavior so as to protect life and property against the hazards of fire, explosion and the release of toxic gases or materials arising from the storage, handling or use of combustible, flammable or hazardous substances, materials or devices shall apply equally to new and existing buildings and conditions.

#### **§ 119-15. Continuance of preexisting conditions.**

The Fire Marshal shall have the authority to permit the continuance of preexisting conditions not in strict compliance with the terms of this chapter where the exceptions do not constitute a distinct hazard to life and/or property.

#### **§ 119-16. Modification and appeals. [Amended 2-15-2006 by L.L. No. 1-2006<sup>6</sup>]**

- A. An owner or his agent may apply for a variance with respect to any provision of this chapter to the Henrietta Zoning Board of Appeals, pursuant to that Board's procedures.
- B. An owner or his agent may apply to a New York regional board of review in order to seek for a variance or modification with respect to any provision of the New York State Uniform Fire Prevention and Building Code, pursuant to the procedures and fees promulgated by the New York Department of State.
- C. The procedures set forth herein for appeals shall not prohibit the Fire Marshal from immediately removing a hazard or ordering the immediate closing of a building or premises until a violation of this chapter or the Uniform Code has been corrected, when

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5. Editor's Note: The repeal of former Subsection H, Schedule for compliance, which immediately followed this subsection, is pending adoption.

6. Editor's Note: Amendments pending adoption.

such hazard or existence of such violation constitutes, in the opinion of the Fire Marshal,  
a distinct hazard to life and property or public safety.



## Chapter 125

### FLOOD DAMAGE PREVENTION

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| § 125-1. Findings.   | § 125-11. Floodplain development permit; fees.                |
| § 125-2. Statement of purpose.                                 | § 125-12. Duties and responsibilities of local administrator. |
| § 125-3. Objectives.   | § 125-13. General construction standards.                     |
| § 125-4. Definitions.  | § 125-14. Standards for all structures.                       |
| § 125-5. Applicability.  | § 125-15. Residential structures.                             |
| § 125-6. Basis for establishing areas of special flood hazard. | § 125-16. Nonresidential structures.                          |
| § 125-7. Interpretation; conflict with other provisions.       | § 125-17. Manufactured homes and recreational vehicles.       |
| § 125-8. Penalties for offenses.                               | § 125-18. Appeals Board.                                      |
| § 125-9. Warning and disclaimer of liability.                  | § 125-19. Conditions for variances.                           |
| § 125-10. Designation of local administrator.                  |   |

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 8-20-2007 by L.L. No. 2-2008.<sup>1</sup> Amendments noted where applicable.]**

#### GENERAL REFERENCES

Building and development — See Ch. 48.	Subdivision of land — See Ch. 245.
Drainage — See Ch. 84.	Zoning — See Ch. 295.
Environmental quality review — See Ch. 103.	Design standards for storm drainage — See Ch. A300.
Stormwater management — See Ch. 236.	

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#### § 125-1. Findings.

The Town Board of the Town of Henrietta finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Henrietta and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

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1. Editor's Note: This local law also provided for the repeal of former Ch. 125, Flood Damage Prevention, adopted 8-19-1987 by L.L. No. 1-1987, as amended.

**§ 125-2. Statement of purpose.**

It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- F. Qualify for and maintain participation in the National Flood Insurance Program.

**§ 125-3. Objectives.**

The objectives of this chapter 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, and 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; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

**§ 125-4. Definitions.**

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

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

**AREA OF SHALLOW FLOODING** — A designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent or greater annual chance of flooding to an average annual depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

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

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

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

**BUILDING** — See "structure."

**CELLAR** — Has the same meaning as "basement."

**COASTAL HIGH-HAZARD AREA** — An area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high-velocity wave action from storms or seismic sources. The area is designated on a FIRM as Zone V1-V30, VE, VO or V.

**CRAWL SPACE** — An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

**ELEVATED BUILDING** —

- (1) A nonbasement building:
  - (a) Built, in the case of a building in Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor or, in the case of a building in Zone V1-30, VE, or V, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and
  - (b) Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.
- (2) In the case of Zone A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zone V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

**FEDERAL EMERGENCY MANAGEMENT AGENCY** — The federal agency that administers the National Flood Insurance Program.

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

**FLOOD ELEVATION STUDY** — An examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood-related erosion hazards.

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

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

**FLOOD INSURANCE STUDY** — See "flood elevation study."

**FLOOD or FLOODING —**

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waters; or
  - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1) above.

**FLOODPLAIN or FLOOD-PRONE AREA —** Any land area susceptible to being inundated by water from any source (see definition of "flooding").

**FLOODPROOFING —** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**FLOODWAY —** Has the same meaning as "regulatory floodway."

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

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

**HISTORIC STRUCTURE —** Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
- (a) By an approved state program, as determined by the Secretary of the Interior;  
or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

**LOCAL ADMINISTRATOR** — The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or employee of an engineering department.

**LOWEST FLOOR** — The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter.

**MANUFACTURED HOME** — A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION** — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MEAN SEA LEVEL** — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**MOBILE HOME** — Has the same meaning as "manufactured home."

**NEW CONSTRUCTION** — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community, and includes any subsequent improvements to such structure.

**ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD** — Has the same meaning as "base flood."

**PRIMARY FRONTAL DUNE** — A continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

**PRINCIPALLY ABOVE GROUND** — A structure with at least 51% of its actual cash value, excluding land value, above ground.

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 125-12B of this chapter.

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

START OF CONSTRUCTION — The date of permit issuance for new construction and substantial improvements to existing structures, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement is within 180 days after the date of issuance. The "actual start of construction" means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

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

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not include, however, either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by

the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

#### **§ 125-5. Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Henrietta, Monroe County.

#### **§ 125-6. Basis for establishing areas of special flood hazard.**

- A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
  - (1) Flood Insurance Rate Map (single panel) Nos. 36055C-0329G, 36055C-0333G, 36055C-0334G, 36055C-0336G, 36055C-0337G, 36055C-0338G, 36055C-0339G, 36055C-0341G, 36055C-0342G, 36055C-0343G, 36055C-0344G, 36055C-0351G, 36055C-0352G, 36055C-0353G, 36055C-0354G, 36055C-0356G, 36055C-0358G, 36055C-0361G, 36055C-0362G, 36055C-0363G, 36055C-0364G, whose effective date is August 28, 2008.
  - (2) A scientific and engineering report entitled "Flood Insurance Study, Monroe County, New York, All Jurisdictions," dated August 28, 2008.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Town of Henrietta, Department of Engineering/Planning, 475 Calkins Road, Henrietta, New York, 14467.

#### **§ 125-7. Interpretation; conflict with other provisions.**

- A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.



**§ 125-8. Penalties for offenses.**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Henrietta from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 125-18 and 125-19 will be declared noncompliant, and notification shall be sent to the Federal Emergency Management Agency.

**§ 125-9. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Henrietta, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

**§ 125-10. Designation of local administrator.**

The Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

**§ 125-11. Floodplain development permit; fees.**

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 125-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing.

- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee as established by the Town Board of the Town of Henrietta. In addition, the applicant shall be responsible for reimbursing the Town of Henrietta for any additional costs necessary for review, inspection and approval of the project. The local administrator may require a deposit of no more than \$500 to cover these additional costs.
- C. Application for a permit. The applicant shall provide the following information, as appropriate. Additional information may be required on the permit application form.
- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A1-A30, AE or AH, or Zone A if base flood elevation data is available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
  - (2) The proposed elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of any new or substantially improved structure to be located in Zone V1-V30 or VE, or Zone V if base flood elevation data is available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
  - (3) The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
  - (4) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 125-14C, Utilities.
  - (5) A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 125-16, Nonresidential structures.
  - (6) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 125-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
  - (7) A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.

- (8) In Zone A, when no base flood elevation data is available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.
- (9) In Zones V1-V30 and VE, and also Zone V if base flood elevation data is available, designs and specifications, certified by a licensed professional engineer or architect, for any breakaway walls in a proposed structure with design strengths in excess of 20 pounds per square foot.
- (10) In Zones V1-V30 and VE, and also Zone V if base flood elevation data is available, for all new and substantial improvements to structures, floodplain development permit applications shall be accompanied by design plans and specifications, prepared in sufficient detail to enable independent review of the foundation support and connection components. Said plans and specifications shall be developed or reviewed by a licensed professional engineer or architect and shall be accompanied by a statement, bearing the signature of the architect or engineer, certifying that the design and methods of construction to be used are in accordance with accepted standards of practice and with all applicable provisions of this chapter.

**§ 125-12. Duties and responsibilities of local administrator.**

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

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
  - (1) Review all applications for completeness, particularly with the requirements of § 125-11C, Application for a permit, and for compliance with the provisions and standards of this chapter.
  - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 125-13 through 125-17, general construction standards, and in particular, § 125-13A, Subdivision proposals.
  - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the applicable requirements of §§ 125-13 through 125-17, general construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 125-11C(7), as criteria for requiring that new construction, substantial improvements or other proposed development meets the requirements of this chapter.
- (2) When base flood elevation data is not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this chapter.

C. Alteration of watercourses. The local administrator shall:

- (1) Provide notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine whether the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data is available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, the local administrator shall obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) In Zones V1-V30 and VE, and also Zone V if base flood elevation data is available, upon placement of the lowest floor of a new or substantially improved structure, the permit holder shall submit to the local administrator a certificate of elevation, in relation to mean sea level, of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns). The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or

professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. An elevation certificate must also be submitted for a recreational vehicle if it remains on a site 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (3) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.
- E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.
- F. Stop-work orders.
- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 125-8 of this chapter.
  - (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 125-8 of this chapter.
- G. Certificate of compliance.
- (1) In areas of special flood hazard, as determined by documents enumerated in § 125-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
  - (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
  - (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 125-12E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:

- (1) Floodplain development permits and certificates of compliance;
- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 125-12D(1) and (2), and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to § 125-12D(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to §§ 125-18 and 125-19, variance procedures; and
- (5) Notices required under § 125-12C, Alteration of watercourses.

### **§ 125-13. General construction standards.**

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 125-6:

**A. Subdivision proposals.** The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (1) Proposals shall be consistent with the need to minimize flood damage;
- (2) Public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed so as to minimize flood damage; and
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

**B. Encroachments.**

- (1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
  - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
  - (b) The Town of Henrietta agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Henrietta for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Henrietta for all costs related to the final map revision.
- (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 125-6, no new

construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

- (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during the occurrence of the base flood; or
- (b) The Town of Henrietta agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Henrietta for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Henrietta for all costs related to the final map revisions.

**§ 125-14. Standards for all structures.**

- A. Anchoring. New structures and substantial improvements to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
  - (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
  - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
  - (3) For enclosed areas below the lowest floor of a structure within Zone A1-A30, AE or AH, and also Zone A if base flood elevation data is available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.
    - (a) Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
      - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
      - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.

- (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.
- (4) Within Zones V1-V30 and VE, and also within Zone V if base flood elevation is available, new construction and substantial improvements shall have the space below the lowest floor either free from obstruction or constructed with nonsupporting breakaway walls, open-wood lattice-work or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. The enclosed space below the lowest floor shall be used only for parking vehicles, building access or storage. Use of this space for human habitation is expressly prohibited. The construction of stairs, stairwells and elevator shafts is subject to the design requirements for breakaway walls.

C. Utilities.

- (1) New and replacement electrical equipment, heating, ventilating, air-conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or be designed to prevent water from accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**§ 125-15. Residential structures.**

- A. Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 125-13A, Subdivision proposals, § 125-13B, Encroachments, and § 125-14, Standards for all structures:
  - (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data is available, new construction and substantial improvements shall have the lowest



floor (including basement) elevated to or above two feet above the base flood elevation.

- (2) Within Zone A, when no base flood elevation data is available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- (3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in § 125-6 (at least two feet if no depth number is specified).
- (4) Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

#### **§ 125-16. Nonresidential structures.**

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures in areas of special flood hazard, in addition to the requirements in § 125-13A, Subdivision proposals, § 125-13B, Encroachments, and § 125-14, Standards for all structures:

- A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data is available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
  - (1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
  - (2) Be floodproofed so that the structure is watertight below two feet above the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
  - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
  - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in § 125-16A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted

standards of practice for meeting the provisions of § 125-16A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data is available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

#### **§ 125-17. Manufactured homes and recreational vehicles.**

The following standards, in addition to the standards in § 125-13, General construction standards, and § 125-14, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

##### **A. Recreational vehicles.**

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE, AH, V1-V30, V, and VE shall either:
  - (a) Be on site fewer than 180 consecutive days;
  - (b) Be fully licensed and ready for highway use; or
  - (c) Meet the requirements for manufactured homes in Subsections B, C and D of this section.
- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

- B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE, AH, V1-V30, V, and VE shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- C. Within Zone A or V, when no base flood elevation data is available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 125-6 (at least two feet if no depth number is specified).

**§ 125-18. Appeals Board.**

- A. The Zoning Board of Appeals as established by the Town of Henrietta shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The costs to local governments and the dangers associated with conducting search-and-rescue operations during periods of flooding;
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; 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 chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

**§ 125-19. Conditions for variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 125-18D(4)[1] through [12] have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that:
  - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure; and
  - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
  - (1) The criteria of Subsections A, D, E and F of this section are met; and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
  - (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice, over the signature of a community official, that the cost of flood insurance will be commensurate with the increased risk resulting from the lowest floor elevation. Such notification shall be maintained with the record of all variance actions as required in § 125-12H of this chapter.



## **Chapter 134**

### **GAMES OF CHANCE**

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| <p><b>§ 134-1. Title.</b></p> <p><b>§ 134-2. Statutory authority.</b></p> <p><b>§ 134-3. Findings.</b></p> <p><b>§ 134-4. Games of chance authorized.</b></p> <p><b>§ 134-5. Enforcing officer.</b></p> | <p><b>§ 134-6. Conduct of games of chance.</b></p> <p><b>§ 134-7. Penalties for offenses.</b></p> <p><b>§ 134-8. When effective.</b></p> <p><b>§ 134-9. Amendment procedure.</b></p> |
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**[HISTORY: Adopted by the Town Board of the Town of Henrietta 9-7-1977; amended in its entirety 6-20-2001 by L.L. No. 3-2001. Subsequent amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Bingo — See Ch. 35.

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**§ 134-1. Title.**

This chapter shall be known as the "Town of Henrietta Games of Chance Licensing Law."

**§ 134-2. Statutory authority.**

This chapter is subject and subordinate to all the conditions and provisions contained in Article 9-A of the General Municipal Law, and amendments thereto, and any and all rules and regulations and opinions adopted or to be adopted by the New York State Racing and Wagering Board.

**§ 134-3. Findings.**

The Town Board finds the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, patriotic and other worthy causes, and where the beneficiaries are undetermined, to be in the public interest and that the mandate of § 9 of Article 1 of the State Constitution, as amended, should be carried out by rigid regulations to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized.

**§ 134-4. Games of chance authorized.**

It shall be lawful for any authorized organization, as defined in § 186 of Article 9-A of the General Municipal Law, upon obtaining the required license, to conduct games of chance within the territorial limits of the Town of Henrietta, subject to the provisions of this chapter, Article 9-A of the General Municipal Law and any amendments thereto and the following restrictions.

**§ 134-5. Enforcing officer.**

The Town Clerk is hereby delegated the authority granted to the Town Board by the New York State Games of Chance Licensing Law, Article 9-A of the General Municipal Law, in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings and the collection and transmission of fees.

**§ 134-6. Conduct of games of chance.**

- A. The conduct of games of chance in the Town of Henrietta shall be subject to the requirements of Article 9-A of the General Municipal Law.
- B. The conduct of games of chance on Sundays is only permitted when it is specifically provided for in the license issued. No games, however, shall be conducted on Easter Sunday, Christmas Day, New Year's Eve and the Jewish high holy days of Rosh Hashanah and Yom Kippur.

**§ 134-7. Penalties for offenses.**

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

**§ 134-8. When effective.**

The provisions of this chapter shall remain inoperative in the Town of Henrietta unless and until a proposition therefor submitted at a general election in the Town of Henrietta shall be approved by a vote of the majority of the qualified electors in such municipality voting thereon. Upon approval by said electors, this chapter shall be effective on the first day of January next succeeding said election.<sup>1</sup>

**§ 134-9. Amendment procedure.**

This chapter may be amended from time to time or repealed by the Town Board of the Town of Henrietta by a two-thirds vote of such Town Board, and such amendment or repeal, as the case may be, may be made effective and operative not earlier than 30 days following the date of enactment of the ordinance effecting such amendment or repeal, as the case may be, and the approval of a majority of the electors of the Town of Henrietta shall not be a condition prerequisite to the taking effect of such ordinance.

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1. Editor's Note: The games of chance proposition was approved at the general election held November 8, 1977.



## Chapter 148

### LAWNS

**§ 148-1. Requirements for new construction; time frame for compliance.**

**§ 148-2. Responsible party.**

**§ 148-3. Backflow prevention devices for irrigation systems.**

**§ 148-4. Scope of coverage.**

**§ 148-5. Enforcement.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta at time of adoption of Code. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Property maintenance — See Ch. 205.  
Subdivision of land — See Ch. 245.

Zoning — See Ch. 295.

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**§ 148-1. Requirements for new construction; time frame for compliance.**

All newly constructed homes are required to have a lawn installed, which shall adhere to the following requirements:

- A. The minimum thickness of the topsoil shall be six inches throughout the entire lawn area.
- B. After a certificate of occupancy is issued from the Town, the homeowner, builder or developer shall have a minimum of six months to have the topsoil in place and the lawn seeded. The new home shall have an established lawn no later than 12 months from the issue date of the certificate of occupancy.

**§ 148-2. Responsible party.**

The person(s) responsible for installing the lawn in accordance with these regulations shall be identified in writing prior to a building permit being issued. If no one is identified as being responsible, it will automatically be the responsibility of the person(s) named on the required Town of Henrietta building permit.

**§ 148-3. Backflow prevention devices for irrigation systems.**

- A. A Town of Henrietta building permit is required for all lawn irrigation systems to assure that they are not mistakenly installed within the Town, county or state right-of-way.
- B. Monroe County Water Authority and Monroe County Department of Health approvals are required for the backflow prevention device mandated for all lawn irrigation systems.

§ 148-4

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§ 148-5

**§ 148-4. Scope of coverage.**

Except for the building structure/driveway area, all remaining lot areas of the parcel shall be lawn following all requirements in this code. Any relief from this § 148-4 must be approved in writing by the Town of Henrietta Engineering Department in advance of installation of the lawn.

**§ 148-5. Enforcement.**

Approval and enforcement of the above provisions shall be the responsibility of the Town of Henrietta Engineering Department.

## Chapter 150

### LIGHTING

#### **§ 150-1. Commercial or industrial properties.**

#### **§ 150-2. Residential properties.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Building and development — See Ch. 48.

Property maintenance — See Ch. 205.

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#### **§ 150-1. Commercial or industrial properties.**

The Town of Henrietta requires "white light," including but not limited to metal halide, plasma, LED, and similar, for all exterior lighting on new commercial or industrial applications. Metal halide is the standard for all new construction. New construction that is on a parcel which contains or shares a boundary line with existing commercial or industrial uses that are using high-pressure sodium lighting are permitted to use high-pressure sodium lighting for consistency of application and visual consistency.

#### **§ 150-2. Residential properties.**

- A. A property owner, occupant or resident is prohibited from allowing exterior lighting to directly shine onto any neighboring property so as to become a nuisance or to disrupt the peace and/or repose of the neighborhood.
- B. The light spillage on an adjacent property shall be less than 1.0 footcandle.
- C. The maximum height of a pole-mounted light fixture or a building-mounted light fixture shall be 20 feet.
- D. All exterior residential lighting, whether in operation prior to or after the adoption of this chapter, shall comply with these provisions.



## Chapter 168

### NOISE

§ 168-1. Legislative findings and intent.

§ 168-4. Penalties for offenses.

§ 168-2. Prohibited noises.

§ 168-5. Enforcement.

§ 168-3. Improper operation and  
excessive noise of vehicles.

§ 168-6. Exemptions.

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 9-18-1974.  
Amendments noted where applicable.]**

#### GENERAL REFERENCES

Dogs — See Ch. 79.

Vehicles and traffic — See Ch. 273.

Snowmobiles — See Ch. 230.

Motor-driven vehicles — See Ch. 277.

#### **§ 168-1. Legislative findings and intent. [Amended 9-1-1982]**

By enactment of this chapter, the Town Board finds as a matter of policy that unnecessary and unusual noises, particularly if continued for an unreasonable length of time, are or might be detrimental to the health of residents of the town. The intent of this chapter shall be to promote and assure an environment free from noise which threatens or affects the well-being of the citizens of the town; to protect, promote and preserve the public health, safety and welfare by reducing and otherwise regulating unnecessary and disturbing noise; to promote the use and enjoyment of property; to protect the value of property; to protect the enjoyment of sleep and repose; and to protect and improve the quality of life in the Henrietta community.

#### **§ 168-2. Prohibited noises. [Amended 9-1-1982]**

- A. No person shall make or cause to be made any unreasonably loud disturbance or unnecessary noise, which shall be defined as any excessive or unusually loud sound or any sound which crosses at least one real property line and which, in the opinion of persons or agents charged with the responsibility of enforcing this chapter, either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a person or neighborhood.
- B. The following are hereby declared to be in violation of this chapter, but such enumeration shall not be deemed to be exclusive:
  - (1) Permitting or operating any radio, television, phonograph, musical instrument, recording or reproducing system, firearm, explosive device or any other instrument or device in such manner and at such an intensity of volume as will disturb the peace and quiet of a person or neighborhood.
  - (2) Permitting or taking part in an unreasonably noisy or tumultuous party or gathering which disturbs the peace and quiet of a person or neighborhood.

- (3) Operating any motor-driven vehicle or conveyance, including but not necessarily limited to automobiles, trucks, motorcycles, snowmobiles, two-wheel motor vehicles known as minibicycles, trail bicycles or motor scooters, four-wheel motor vehicles commonly known as go-carts or all-terrain vehicles, lawn mowers, engines or other equipment without an adequate muffler properly installed and maintained so as to prevent excessive or unusual noise.
- (4) Building, erecting, demolishing, altering or repairing any building or any other construction activity between the hours of 9:00 p.m. and 7:00 a.m., current time, in such a manner as disturbs the peace and quiet of a person or neighborhood by reason of the use of power equipment, hammering, sawing or other activity which produces severe and continuous noise.<sup>1</sup>
- (5) Permitting or maintaining any animal which frequently or for continued duration makes sounds which create an unreasonable noise across a residential real property boundary.<sup>2</sup>

### **§ 168-3. Improper operation and excessive noise of vehicles.**

- A. No person shall make, aid, countenance or assist in making any improper noise or disturbance or operate a motor vehicle or motorcycle in such a manner as to cause excessive squealing or other excessive noise of the tires or motor of said vehicle or motorcycle in the Town of Henrietta.
- B. Definition. Excessive squealing of tires or other noise of tires or motor is that noise which is produced by the driver who accelerates or decelerates the speed of the vehicle unnecessarily so as to produce such improper or excessive sound when said acceleration or deceleration is not required for the proper operation of said vehicle under the conditions existent at the time and place of the occurrence.
- C. If the excessive noise of the motor vehicle is caused by reason of failure to provide proper equipment for said vehicle or to keep such equipment in proper condition and repair, said vehicle shall be deemed to be in violation of § 386 of the Vehicle and Traffic Law, and appropriate action shall be taken by the arresting officer in accordance with said § 386.
- D. No person shall grant permission or otherwise allow the operation of vehicles on private property in any manner which is disruptive to the peace and quiet of a person or neighborhood or which violates any section of this chapter. **[Added 9-1-1982]**

### **§ 168-4. Penalties for offenses.**

A violation of this chapter shall constitute an offense, and a person violating the same shall be subject to a fine of not more than \$250 or imprisonment for a term not exceeding 15 days, or both such fine and imprisonment.

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1. Editor's Note: Amendments pending adoption.

2. Editor's Note: Adoption pending.

**§ 168-5. Enforcement.** <sup>3</sup>

This chapter may be enforced by the designated Town Code Enforcement Officer or members of the Monroe County Sheriff's Department, state police or other peace officers in connection with their duties imposed by law.

**§ 168-6. Exemptions. [Added 9-1-1982]**

The provisions of this chapter shall not apply to:

- A. Fire, rescue or other emergency activities.
- B. Permitted construction activities. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- C. Aircraft and airport operations.
- D. Snow removal and public works activities.
- E. The unamplified human voice.
- F. Railroad and railway operations.
- G. Farming equipment.
- H. Federal and state regulations which preempt town authority.

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3. Editor's Note: Amendments pending adoption.





## **Chapter 176**

### **OFFICERS AND EMPLOYEES**

#### **ARTICLE I** **Defense and Indemnification**

**§ 176-1. Benefits to be conferred upon officers and employees; liability for costs.**

**§ 176-2. Purchase of insurance authorized.**

#### **ARTICLE II** **Deputy Town Clerks**

**§ 176-3. Appointment; classification.**

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

#### **ARTICLE III** **Town Attorney**

**§ 176-4. Residency requirement.**

**§ 176-5. Conflicting provisions.**

#### **ARTICLE IV** **Town Superintendent of Highways**

**§ 176-6. Residency requirement.**

#### **GENERAL REFERENCES**

Ethics — See Ch. 109.

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#### **ARTICLE I** **Defense and Indemnification** **[Adopted 7-17-1985]**

**§ 176-1. Benefits to be conferred upon officers and employees; liability for costs.**

The Town of Henrietta does hereby agree and determine that:

- A. The benefits of § 18 of the Public Officers Law shall be benefits which are conferred upon the officers and employees of the Town of Henrietta, as such officers and employees are defined by § 18 of the Public Officers Law.
- B. The Town of Henrietta shall be liable for all costs incurred under these provisions.

**§ 176-2. Purchase of insurance authorized.**

The Town of Henrietta is authorized and empowered to buy a suitable policy of insurance, from any insurance company created by or under the laws of this state or authorized by law to transact business in this state, against any liability imposed by the provisions of § 18 of the Public Officers Law and the enactment of this article.

ARTICLE II  
**Deputy Town Clerks**  
[Adopted 5-1-1991 by L.L. No. 1-1991]

**§ 176-3. Appointment; classification.**

The Town Clerk may appoint not more than three Deputy Town Clerks to act in the place and stead of the Town Clerk. Said position shall be exempt from civil service.

ARTICLE III  
**Town Attorney**  
[Adopted 12-17-1997 by L.L. No. 2-1997]

**§ 176-4. Residency requirement. <sup>1</sup>**

Notwithstanding the provisions of Subdivision 1 of § 23 of the Town Law of the State of New York, in the Town of Henrietta, Monroe County, the person performing the functions of Town Attorney need not be an elector of such Town, but must be a resident of Monroe County.

**§ 176-5. Conflicting provisions.**

Insofar as the provisions of this article are inconsistent with the provisions of any other local law or act the provisions of this article shall be controlling.

ARTICLE IV  
**Town Superintendent of Highways**  
[Adopted 12-16-2009 by L.L. No. 1-2009]

**§ 176-6. Residency requirement.**

Notwithstanding the provisions of § 23 of the New York State Town Law and § 3 of the New York State Public Officers Law, in the Town of Henrietta, Monroe County, the person performing the functions of Town Superintendent of Highways must be a resident of the County of Monroe, State of New York, but need not be an elector or resident of the Town of Henrietta.

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**1. Editor's Note: Amendments pending adoption.**

## Chapter 183

### PARKING

#### ARTICLE I Emergencies

#### ARTICLE II Winter Parking

- |  |                                   |
|--|-----------------------------------|
| § 183-1. Title.  | § 183-5. Findings; purpose.       |
| § 183-2. Declaration of emergency.                     | § 183-6. Short title.             |
| § 183-3. Removal of vehicles.                          | § 183-7. Definitions.             |
| § 183-4. Vehicles obstructing traffic or snow removal. | § 183-8. Parking restrictions.    |
|  | § 183-9. Removal of vehicles.     |
|  | § 183-10. Penalties for offenses. |

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

#### GENERAL REFERENCES

Trailers — See Ch. 257.

Vehicles and traffic — See Ch. 273.

#### ARTICLE I Emergencies [Adopted 12-16-1959]

##### § 183-1. Title.

This article shall be known as the "Emergency Parking Control Ordinance of the Town of Henrietta."

##### § 183-2. Declaration of emergency.

- A. Whenever the Supervisor is advised by the Town Superintendent of Highways, or by any fire chief of any fire department in the Henrietta Fire District, that an emergency exists because of snowstorms, floods, fires or other public emergency and that snowplowing, fire fighting, flood relief or other relief measures will be prevented by vehicles parked, standing or abandoned on Town or county highways within the Town of Henrietta, the Supervisor may declare that a parking emergency exists either in the entire Town or upon a designated Town or county highway or highways, or portion thereof.
- B. Such emergency shall be announced, and notice thereof given, by publication once in any newspaper having circulation in the Town or by any Henrietta fire department or in such other manner as may be expedient. Thereafter, during the period of such emergency and until public announcement in the same manner that the period of emergency is ended, no vehicle shall be parked or left on any Town or county highway in the Town if the

emergency has been declared to exist in the entire Town, and if the emergency applies only to a designated highway or highways or portion thereof, no vehicle shall be parked or left on such highway or highways or portion thereof during such emergency.  
**[Amended 6-20-2001 by L.L. No. 3-2001]**

- C. When the emergency is ended, the Supervisor shall announce the ending in the same manner as the original declaration thereof. Any parking in violation of this article shall be a traffic infraction.
- D. Such emergency may also be declared by the Town Board of Henrietta at any regular or special meeting and, when so declared by the Town Board, shall be announced by the Town Clerk or Supervisor in the manner herein provided. The Town Board may act either upon the advice of the Superintendent of Highways or fire chief or upon its own knowledge of the conditions creating the emergency.

### **§ 183-3. Removal of vehicles. <sup>1</sup>**

Any vehicle found standing, parked or left on a highway in violation of this article shall be removed and stored by the Town in accordance with Article IV, Removal and Storage of Abandoned or Illegally Parked Vehicles, of Chapter 273, Vehicles and Traffic, of the Code of the Town of Henrietta.

### **§ 183-4. Vehicles obstructing traffic or snow removal. [Added 1-4-1960<sup>2</sup>]**

Whether or not an emergency exists or has been proclaimed, whenever any vehicle is found unattended or parked on any highway within the Town of Henrietta in such a position as to obstruct traffic or to interfere with snow removal operations being carried out by the Town, such vehicle shall be subject to removal as set forth in Article IV, Removal and Storage of Abandoned or Illegally Parked Vehicles, of Chapter 273, Vehicles and Traffic, of the Code of the Town of Henrietta.

## **ARTICLE II Winter Parking [Adopted 11-7-1984]**

### **§ 183-5. Findings; purpose.**

The Town Board of the Town of Henrietta finds that the leaving of vehicles on Town highways during periods of snowfall has hindered and obstructed the Superintendent of Highways in snow removal operations. The Town Board additionally finds that the leaving of vehicles on highways within the Town during snowstorms causes hazards to persons using such highways. The purpose of this article is to protect the health, safety and well-being of persons and property by imposing restrictions on the leaving of vehicles on highways during snowstorms.

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1. Editor's Note: Amendments pending adoption.

2. Editor's Note: Amendments pending adoption.

**§ 183-6. Short title.**

This article shall be known as the "Winter Parking Ordinance" of the Town of Henrietta.

**§ 183-7. Definitions.**

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

**HIGHWAY** — The entire width between the boundary lines of every publicly maintained way that is open to the use of the public for purposes of vehicular and/or pedestrian traffic. <sup>3</sup>

**VEHICLE** — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including licensed vehicles, except devices moved by human power or used exclusively upon stationary rails or tracks.

**§ 183-8. Parking restrictions. <sup>4</sup>**

- A. The parking of vehicles is hereby prohibited on all public streets, highways or roadways within the Town of Henrietta between 2:00 a.m. and 9:00 a.m. from November 1 to April 1 of each year.
- B. When deemed advisable in the interest of public safety, including snow removal, the Town Supervisor or Highway Superintendent may prohibit parking and stopping as necessary, and all pedestrians and drivers of vehicles shall comply with those regulations.

**§ 183-9. Removal of vehicles. <sup>5</sup>**

Any vehicle found standing, parked or left on a highway in violation of this article shall be removed and stored by the Town in accordance with Article IV, Removal and Storage of Abandoned or Illegally Parked Vehicles, of Chapter 273, Vehicles and Traffic, of the Code of the Town of Henrietta.<sup>6</sup>

**§ 183-10. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

In addition to any penalty contained in any other provision of the law, any person who shall violate any provisions of this article shall be guilty of a violation and shall be punished by a fine of not less than \$25 nor more than \$100.

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3. Editor's Note: Amendments pending adoption.

4. Editor's Note: Amendments pending adoption.

5. Editor's Note: Amendments pending adoption.

6. Editor's Note: The repeal of original § 183-10 of the 2001 Town Code, Notice of removal, which immediately followed this section, is pending adoption.



## Chapter 187

### PARKS

§ 187-1. Title.

§ 187-2. Purpose.

§ 187-3. Hours.

§ 187-4. Prohibited acts.

§ 187-5. Alcoholic beverages.

§ 187-6. Administration.

§ 187-7. Enforcement.

§ 187-8. Penalties for offenses.

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 6-19-1974. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Alcoholic beverages — See Ch. 16.  
Dogs — See Ch. 79.  
Noise — See Ch. 168.

Snowmobiles — See Ch. 230.  
Trees — See Ch. 261.  
Motor-driven vehicles — See Ch. 277.

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**§ 187-1. Title.**

This chapter shall be known as the "Henrietta Parks Ordinance."

**§ 187-2. Purpose.**

The purpose of this chapter shall be to preserve the public peace and good order in the areas owned by the Town of Henrietta and operated as public parks and to contribute to the safety and enjoyment of the users of the park lands by regulating the hours of use and the use of motorized vehicles and by prohibiting certain activities inimical to customary park recreation uses.

**§ 187-3. Hours. [Amended 6-3-1987]**

Town parks will be open to the general public at such hours as shall be set from time to time by the Town Board each day and otherwise will be closed. During the hours that the parks are closed, entrance to or occupancy of any park area is prohibited, except by issuance of a permit by the Director of Parks and Facilities or his designated agent.<sup>1</sup>

**§ 187-4. Prohibited acts.**

The following acts are prohibited, and no person shall:

- A. Operate any motorized vehicle, such as automobiles, motorcycles, minibikes, snowmobiles and the like, within the area of park lands; provided, however, that the

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1. Editor's Note: Throughout this chapter, references to the "Director of Buildings and Grounds" were amended to read "Director of Parks and Facilities" 6-20-2001 by L.L. No. 3-2001.

operation of licensed vehicles for the transporting of the public to and from the park lands is permitted on all improved roadways, and the parking of such vehicles is also permitted within designated parking areas.

- B. Hunt, trap or discharge any firearm, spring gun or air gun within the area of park lands.
- C. Injure, deface or disturb any part of the park or any building, sign, equipment or other property therein or remove, injure or destroy any tree, flower, shrub, rock or other mineral therein.
- D. Set fire or assist another to set fire to any timber, trees, shrubs, grass, leaves, growth or any other combustible material or suffer any fire upon other land to extend onto any part of the park. Fires within town fireplaces and portable grills are permitted within designated areas of the park but must be completely extinguished after use.
- E. Throw, cast, lay, drop, discharge, deposit, bring into or leave in any part of the park any garbage, sewage, refuse, waste or other obnoxious material, except in receptacles provided for such purpose.
- F. Drive or propel or cause to be driven or propelled along or over any road within the park any vehicle at a greater rate of speed than 20 miles per hour.
- G. Use unreasonably loud or obscene language with the intent to cause public inconvenience, annoyance or alarm or interfere with any officer of the town, county or state in the performance of his duty.

**§ 187-5. Alcoholic beverages. [Added 2-4-1981]**

The use and consumption of alcoholic beverages in the Henrietta Veterans Memorial Park shall be governed by the following conditions:

- A. There shall be no consumption of alcoholic beverages in Veterans Memorial Park except as otherwise herein permitted.
- B. No alcoholic beverages shall be dispensed from a temporary bar or keg-type apparatus in any location within the Veterans Memorial Park other than the park cabin or the picnic shelter, provided that permission therefor shall first be obtained and specified on a current and valid facility permit issued at the Town Hall and prominently displayed on the premises. **[Amended 6-3-1987]**
- C. The use and consumption of alcoholic beverages in Henrietta Park areas is subject to all appropriate New York State laws regarding the use by or distribution to minors.
- D. No alcoholic beverages may be consumed on any parking lot or street or other public right-of-way in Veterans Memorial Park.
- E. Except as provided for the use of alcoholic beverages in the park cabin in Veterans Memorial Park as authorized by a facility permit, no beverages, alcoholic or otherwise, shall be used or carried in glass containers in any part of Veterans Memorial Park. **[Amended 6-3-1987]**



- F. No alcoholic beverages may be consumed while inside of or sitting on top of any vehicle parked in any part of Veterans Memorial Park.

**§ 187-6. Administration. [Amended 6-3-1987]**

The Director of Parks and Facilities is charged with the administration of this chapter and the posting of signs designating park lands and park regulations.

**§ 187-7. Enforcement. [Amended 6-3-1987]**

- A. The Director of Parks and Facilities, or deputies duly appointed by said Director, and members of the Monroe County Sheriff's Department or other peace officers shall, in connection with their duties imposed by law, diligently enforce the provisions of this chapter.
- B. Ejection. The Director of Parks and Facilities, or deputies duly appointed by said Director, and members of the Monroe County Sheriff's Department or other peace officers shall have the authority to eject from park lands any person acting in violation of this chapter.

**§ 187-8. Penalties for offenses. [Amended 2-4-1981; 6-20-2001 by L.L. No. 3-2001]**

- A. Any person violating any provision or regulations of this chapter, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation.
- B. In addition to other remedies the Town Board may also enforce obedience to this chapter by injunction.



## **Chapter 192**

### **PEDDLING, VENDING AND SOLICITING**

§ 192-1. Title.	§ 192-8. Records; expiration of license or permit.
§ 192-2. Purpose.	§ 192-9. License fees.
§ 192-3. Definitions.	§ 192-10. Restrictions.
§ 192-4. License and special permit required.	§ 192-11. Cart vendors.
§ 192-5. Exceptions.	§ 192-12. Revocation of license.
§ 192-6. Application for license.	§ 192-13. Appeals.
§ 192-7. Issuance of license; conditions.	§ 192-14. Penalties for offenses.

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 10-6-1976. Amendments noted where applicable.]**

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#### **§ 192-1. Title.**

This chapter shall be known and may be cited as the "Peddling, Vending and Soliciting Ordinance of the Town of Henrietta."

#### **§ 192-2. Purpose.**

This chapter is enacted for the purpose of regulating itinerant merchandising and soliciting in order that the peace, health, safety, welfare and good order of the Town and its inhabitants shall not be endangered or unduly disturbed.

#### **§ 192-3. Definitions. [Amended 10-19-1983]**

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

**ESTABLISHED PLACE OF BUSINESS** — A permanent building, store or depository in which or where the person transacts business and deals in the goods, wares, commodities or services he peddles, vends or solicits in the ordinary and regular course of business.

**GARAGE AND LAWN SALES** — A household sale conducted by or with permission of a residential homeowner, not to exceed three consecutive selling days, for the purpose of selling used household goods.

**LICENSE** — Unless otherwise specified, shall be construed to mean a license or special permit as required by this chapter.

**MERCHANDISING** — The selling, bartering or trading of or offering to sell, barter or trade any goods, wares, commodities or services.

**PEDDLER AND SOLICITOR** — Includes, unless otherwise herein provided, any person who engages in merchandising any goods, wares, commodities, books, periodicals or services or solicits contributions of goods or moneys by going from house to house or place of business to place of business.

**PERSON** — Includes any individual, firm, partnership, corporation, unincorporated association and principal or agent thereof.

**TEMPORARY OCCUPANCY** — A store, room, building, tent, enclosure or structure of any kind intended to be occupied for the period of time necessary to peddle, vend or solicit the merchandise or products therein housed initially without the intent to replenish or restock such goods, wares and merchandise sold therein. In all prosecutions for a violation of this chapter, the intent of the defendant to conduct an established place of business shall be a material fact, and the burden of proving such intent shall be upon the defendant in such prosecution.

**VENDOR** — Includes, unless otherwise herein provided, a person who engages in merchandising any goods, wares, commodities, books, periodicals or services or solicits contributions of goods or moneys by occupying space on any public street, roadside, private or public parking lot or driveway unless owned by said vendor or operated under lease as adjunct to the vendor's business.

**§ 192-4. License and special permit required. [Amended 10-19-1983]**

- A. It shall be unlawful for any person within the jurisdiction of this chapter to act as a peddler or solicitor, as herein defined, without first having obtained and paid for and having in force and effect a license therefor.
- B. It shall be unlawful for any person within the jurisdiction of this chapter to act as a vendor, as herein defined, without first having obtained and having in force and effect a special permit from the Town Board therefor.

**§ 192-5. Exceptions.**

- A. The provisions of this chapter shall not apply to the following:
  - (1) Any person soliciting at the express invitation of the person solicited.
  - (2) A wholesaler selling articles to dealers or merchants who have an established place of business within the Town.
  - (3) A truck gardener or farmer who himself or through his employees vends, sells or disposes of products of his own farm or garden.
  - (4) A child regularly attending any public, parochial or private school located within the Town of Henrietta or a member of a veterans organization, provided that such organization has and maintains a chapter, post, lodge, camp or other group within the Town of Henrietta, or a member of a fraternal organization or civic group that maintains a chapter or local organization within the Town of Henrietta, and further provided that any person coming within the provisions of this exemption shall only

peddle, vend or solicit in connection with an authorized activity of the organization of which he is a member or the school which he attends.

- (5) Auction sales held pursuant to law by a sheriff or other officer authorized by law to conduct such sale.
- (6) Users under lease or permit by the Regional Marketing Authority vending, selling or disposing of products at the Regional Market Facility in the Town of Henrietta.
- (7) Users under lease or permit by the Monroe County Fair and Recreation Association vending, selling or disposing of products at the Monroe County Fair and Recreation Facility in the Town of Henrietta.
- (8) Residents of the Town of Henrietta who as representatives of a national, statewide or regional commercial enterprise engage in merchandising, as herein defined, any goods, wares, commodities, books, periodicals or services, provided that such commercial enterprise is duly licensed, pursuant to the provisions of this chapter, and further provided that such resident carries on his or her person and upon demand exhibits to the prospective buyer, any Town official, police officer or sheriff an identification issued by such commercial enterprise setting forth the name and address of the licensee and the date of the issuance of such license.
- (9) Members or representatives of a church or religious organization or sect in the exercise of legitimate religious activities, provided that such persons or the church, organization or sect which they represent, prior to the commencement of such activities, notify the Fire Marshal/Building Inspector of their intended peddling, vending or soliciting and further provided that such activities are carried out in an orderly manner without annoyance or harassment to the persons solicited or in any way disturbing the peace or creating a public or private nuisance. **[Amended 10-4-1989; 2-15-2006 by L.L. No. 1-2006]**
- (10) Garage and lawn sales, provided that not more than three such sales shall be conducted on any single property within the same calendar year. Household sales of this type in excess of limits herein stated shall require a special permit of the Town Board for each occurrence. **[Added 10-19-1983]**
- (11) Any honorably discharged member of the armed forces or any other person who has procured a license issued by the County Clerk as provided by § 32 of the General Business Law of the State of New York.<sup>1</sup>

B. This chapter shall not apply so as to interfere unlawfully with interstate commerce.

#### **§ 192-6. Application for license.**

- A. Every applicant for a license is required to submit to the Fire Marshal/Building Inspector a written application supplying, under oath, the following information: **[Amended 10-4-1989; 2-15-2006 by L.L. No. 1-2006]**

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1. Editor's Note: Adoption pending.

§ 192-6

HENRIETTA CODE

§ 192-8

- (1) Name of applicant.
  - (2) Permanent home residence.
  - (3) Name and address of firm represented, if any.
  - (4) The length of time for which the license is required.
  - (5) A description of the goods, wares, commodities or services to be offered for sale, together with a true invoice of their amount, quality and value.
  - (6) All felonies or misdemeanors with which the applicant has been charged and the disposition of each such charge.
  - (7) A written detailed description of the specific proposed plan of operations to be used by the applicant in merchandising the products or services.
- B. To the application must be appended a letter of authorization from the firm which the applicant purports to represent.
- C. If the applicant has one or more employees who will work in the Town, the same information must be supplied as to each employee.

**§ 192-7. Issuance of license; conditions. [Amended 10-4-1989; 2-15-2006 by L.L. No. 1-2006]**

Upon receipt of the application and the license fee and if reasonably satisfied with the applicant's qualifications, the Fire Marshal/Building Inspector shall issue a license to the applicant specifying the particular business and method of business operations authorized, along with any restrictions thereon. This license shall be nontransferable and shall be in the continuous possession of the licensee while engaged in the business licensed. The license shall be produced upon the demand of any Town official, prospective buyer, police officer or sheriff.

**§ 192-8. Records; expiration of license or permit.**

- A. The Fire Marshal/Building Inspector shall keep a record of the applications, the determinations thereon and of all licenses issued in accordance with this chapter. The record shall contain the name and residence of the person licensed, the location of the business, the amount of the license fee paid and the date of revocation of all licenses revoked. **[Amended 10-4-1989; 2-15-2006 by L.L. No. 1-2006]**
- B. All licenses hereunder shall expire no later than one year from date of issue. Special permits shall be time limited at the discretion of the Town Board. **[Amended 10-19-1983]**

**§ 192-9. License fees.**

- A. The Town Board of Henrietta shall, from time to time by resolution, establish a schedule of fees to be paid for any license issued pursuant to the provisions of this chapter.
- B. All fees shall be payable at the time of the issuance of the license and shall be paid in cash or certified funds.

**§ 192-10. Restrictions.**

- A. A peddler, vendor or solicitor, whether licensed or exempt from licensing pursuant to the provisions of this chapter, shall:
  - (1) Not willfully misstate the quantity or quality of any article or service offered for sale.
  - (2) Not willfully offer for sale any article of an unwholesome or defective nature.
  - (3) Not call attention to his goods by blowing a horn, by shouting or crying out or by any loud or unusual noise.
  - (4) Not frequent any street in an exclusive manner so as to cause a private or public nuisance.
  - (5) Keep the vehicle and/or receptacles used by him in the furtherance of his licensed business in a sound, clean and sanitary condition.
  - (6) Keep his edible articles offered for sale well protected from dirt, dust and insects.
  - (7) Not stand, hawk, peddle or solicit, or solicit funds, on or near the premises of any business establishment, shopping center or mall without the written consent of the owner or individual, agency or organization responsible for the management and/or operation of the same.
  - (8) Not sell or vend within 250 feet of any school property between the hours of 8:00 a.m. and 4:00 p.m. on school days.
  - (9) Not enter upon private property for the purpose of peddling or soliciting before the hour of 9:00 a.m. of any day or after 1/2 hour before sunset of any day, except upon the invitation of the householder or occupant.
- B. It shall be unlawful for any peddler or solicitor in plying his trade to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "no peddlers," "no solicitors," "no agents" or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises.

**§ 192-11. Cart vendors. <sup>2</sup>**

- A. Vendors requesting to operate a cart service in the Town of Henrietta must submit a permit application prior to commencing service. The application must be accompanied by:
  - (1) If food service is involved, a New York State Department of Health license issued to allow the specific type of vending requested.
  - (2) A New York State sales tax certificate, which must be prominently displayed on the vendor's cart.
  - (3) A certificate of liability insurance adequately insuring the Town or the owner of the property on which the vendor's cart is located.
  - (4) A fee in an amount set from time to time by resolution of the Town Board.
- B. Upon approval of a permit application, the Town will provide the applicant with the location of designated areas in which the vendor may operate. Any other requested area must receive prior approval after Town review.
- C. The permit must be prominently displayed on the vendor's cart.

**§ 192-12. Revocation of license.**

- A. Licenses issued under provisions of this chapter may be revoked by the Town Board of the Town of Henrietta after notice and hearing for any of the following causes:
  - (1) Fraud, misrepresentation or any false statement contained in the application for license.
  - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler, vendor or solicitor.
  - (3) Any violation of this chapter.
  - (4) Conviction of any crime or misdemeanor involving moral turpitude.
  - (5) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
  - (6) Any breach of stipulations or conditions specified by the Town Board or any deviation from the terms and agreements upon which a special permit has been granted, as provided herein. **[Added 10-19-1983]**
- B. The Town Board may suspend for up to 60 days or revoke any license or permit issued under this chapter upon a finding that the holder of any such license or permit has violated any provision of this chapter; violated any condition of the license or permit; been convicted of any violation referred to in this section; or been indicted or charged or

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2. Editor's Note: Adoption pending.



convicted of any crime. A hearing for such suspension or revocation shall be held before the Town Board upon notice as provided herein. **[Amended 10-4-1989]**

- C. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for the hearing.
- D. If the licensee has one or more employees, the revocation hereunder shall apply to the licensee and all employees if either he or any one or more of his employees are determined to be in violation of this chapter.

**§ 192-13. Appeals. [Amended 10-4-1989; 2-15-2006 by L.L. No. 1-2006]**

Any person aggrieved by the action of the Fire Marshal/Building Inspector in the denial of an application for a license, as provided in § 192-6 of this chapter, shall have the right to appeal to the Town Board of the Town of Henrietta. Such appeal shall be taken by filing, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant at his last known address at least five days prior to the date set for the hearing. The granting, refusal or revocation of a license by the Town Board shall be subject to review by certiorari.

**§ 192-14. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

Any person who shall act as a peddler, vendor or solicitor, as herein defined, without a license, or who shall violate any of the provisions of this chapter or who shall continue to act as peddler, vendor or solicitor subsequent to the revocation of his license shall be guilty of an offense and, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation.



## Chapter 198

### PLUMBING AND ELECTRICAL

#### ARTICLE I Licensing of Plumbers and Electricians

- § 198-1. License required.
- § 198-2. License fees; expiration.
- § 198-3. Issuance of licenses.
- § 198-4. Licensing of corporations.
- § 198-5. Bond required.
- § 198-6. Refusal to issue license.
- § 198-7. Revocation of license.
- § 198-8. Penalties for offenses.

#### ARTICLE II Plumbing and Electrical Permits

- § 198-9. Permit required.
- § 198-10. Application for permit.
- § 198-11. Applicability of other procedures.
- § 198-12. Inspections and tests.
- § 198-13. Standards.
- § 198-14. Fees.
- § 198-15. Definitions.
- § 198-16. Penalties for offenses.

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

#### GENERAL REFERENCES

Building and development — See Ch. 48.

Sewers — See Ch. 219.

#### ARTICLE I Licensing of Plumbers and Electricians [Adopted 11-21-1962<sup>1</sup>]

##### **§ 198-1. License required. [Amended 2-15-2006 by L.L. No. 1-2006]**

No person, firm or corporation shall conduct the trade, business or calling of plumbing/electrical within the Town of Henrietta without first having obtained a license therefor issued by the Fire Marshal/Building Inspector of said Town or otherwise than in accordance with the terms of said license and without having first obtained and filed with said Inspector a bond as hereinafter provided. Such license shall be issued in writing on blanks furnished for such purpose.

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1. Editor's Note: Adoption of amendments pending.

**§ 198-2. License fees; expiration. [Amended 3-18-1964; 1-3-1968; 6-20-2001 by L.L. No. 3-2001]**

The annual license fee, as established by the Town Board, shall be payable when the license is issued, and the same license fee is payable for a period of less than one year. Each and every license shall expire on December 1 next after the issuance thereof.

**§ 198-3. Issuance of licenses. [Amended 9-1-1976; 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**

The Town Fire Marshal/Building Inspector may issue a license to any applicant therefor, provided that such applicant holds a license issued by the Examining Board of Plumbers of the City of Rochester, New York, or the Electrical Examining Board of the City of Rochester, New York, or said Fire Marshal/Building Inspector may issue a license to any person who has carried on the trade of plumbing/electrical for a period of at least 10 years prior to the date of the issuance of such license or may issue such license to any person who has qualified therefor by passing such examination as may be prescribed by the Fire Marshal/Building Inspector. The Town Fire Marshal/Building Inspector may issue a license to any domestic corporation which, pursuant to the provisions of § 198-4, is entitled to conduct the trade, business or calling of plumbing/electrical.

**§ 198-4. Licensing of corporations.**

A domestic corporation may conduct the trade, business or calling of plumbing/electrical within the Town of Henrietta and shall be entitled to a license therefor, provided that one or more officers of such corporation separately or in the aggregate actually hold or own at least 51% of the issued and outstanding capital stock of said corporation, and provided that each of such officers holding such percentage of the stock is the holder of a license issued as aforesaid. In case one or more officers of a corporation engaged in such business shall die, said officer being the holder of such license, the corporation may continue the business during the time necessarily required for the administration of the estate of such deceased officer, not exceeding two years from the granting of letters, provided that one or more officers of the corporation are the holders of such license and, together with the legal representatives of such deceased officer or officers, actually own and hold at least 51% of the issued and outstanding capital stock of said corporation.

**§ 198-5. Bond required. [Amended 3-18-1964; 2-15-2006 by L.L. No. 1-2006]**

A bond in the sum of \$5,000, to be approved by the Town Board, shall be executed by every person or corporation engaging in such trade within the Town of Henrietta, and the bond shall be filed in the office of the Department of the Fire Marshal/Building Inspector before a license shall be issued as hereinbefore specified; such bond shall be conditioned so that the Town of Henrietta will be indemnified and saved harmless from all claims or damages caused or occasioned by any negligence either in the execution or the performance or the protection of the work of the licensee or on account of any unfaithful or inadequate work done or performed by him as such plumber/electrician. Such bond shall be renewed from year to year so long as the licensee engages in or does plumbing/electrical work in said Town. This article

shall not apply to any person doing repair work on or to his own private sewage disposal system nor to any member of his household nor to employees of public service corporations while they are engaged in the work of such corporation.

**§ 198-6. Refusal to issue license. [Amended 9-1-1976; 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**

A license may be refused if the applicant shall have been convicted of a misdemeanor or a felony which, in the judgment of the Town Fire Marshal/Building Inspector, renders the applicant an unfit or undesirable person or the applicant, in the opinion of said Fire Marshal/Building Inspector, is incapable of conducting the trade, business or calling of plumbing/electrical. Any applicant who has been refused a license by the Town Fire Marshal/Building Inspector may appeal to the Town Board from such refusal, and such license may be granted or refused by the Town Board.

**§ 198-7. Revocation of license. [Amended 9-1-1976; 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**

The Fire Marshal/Building Inspector may revoke any license issued under the authority of this article, provided that before such revocation a public hearing thereon has been had and the licensee has had an opportunity to be heard, and provided that the Fire Marshal/Building Inspector, before such revocation, shall make a determination that such licensee is undesirable or is incapable, except that a violation of this article shall be sufficient grounds for the revocation of such license. The granting, refusal or revocation of such license by the Fire Marshal/Building Inspector shall be subject to review by certiorari.<sup>2</sup>

**§ 198-8. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

A violation of this article or any subdivision or provision thereof shall be an offense and shall be punishable, upon conviction thereof, by a minimum fine of \$100 up to a maximum fine of \$250 or imprisonment not to exceed 15 days, or both such fine and imprisonment.

## ARTICLE II

### **Plumbing and Electrical Permits [Adopted 6-20-2001 by L.L. No. 3-2001<sup>3</sup>]**

**§ 198-9. Permit required. [Amended 2-15-2006 by L.L. No. 1-2006]**

No person, firm or corporation shall commence the installation, alteration or removal of any plumbing/electrical system, in whole or in part, or cause the same to be done without first obtaining a separate plumbing/electrical permit from the Fire Marshal/Building Inspector for

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2. Editor's Note: Original § 8, Plumbing Board, which immediately followed this section and was added 9-1-1976, was repealed 6-20-2001 by L.L. No. 3-2001.

3. Editor's Note: Amendments pending adoption.

each such installation, alteration or removal, except that no plumbing/electrical permit shall be required for the performance of ordinary repairs.

**§ 198-10. Application for permit.**

- A. Application for a plumbing/electrical permit shall be made to the Fire Marshal/Building Inspector on forms provided by the Department of the Fire Marshal/Building Inspector and shall contain the following information: **[Amended 2-15-2006 by L.L. No. 1-2006]**
- (1) The location of the building in which the work is to be done.
  - (2) The valuation of the proposed work.
  - (3) The full name and address of the owner and of the applicant and the names and addresses of their responsible officers, if any of them are corporations.
  - (4) A brief description of the nature of the proposed work.
  - (5) The name, business address and telephone number of the plumber/electrician who will do the work.
  - (6) Such other information as may reasonably be required by the Fire Marshal/Building Inspector to establish compliance of the proposed work with requirements of the applicable plumbing/electrical laws, ordinances and regulations.
- B. Application shall be made by the plumber/electrician who will perform the proposed work or his duly authorized representative.
- C. Each application shall be accompanied by a duplicate set of plans and specifications, drawn to scale, showing location and size of all piping, fixtures, appliances, fittings and other materials to be incorporated and any other details required by the Fire Marshal/Building Inspector which may be reasonably required to show compliance with applicable laws, ordinances and regulations. The Fire Marshal/Building Inspector may waive the filing of plans. **[Amended 2-15-2006 by L.L. No. 1-2006]**

**§ 198-11. Applicability of other procedures.**

All procedures under other relevant sections of this Code, as amended, shall apply to plumbing/electrical permits and to all plumbing/electrical work done under building permits.

**§ 198-12. Inspections and tests. [Amended 2-15-2006 by L.L. No. 1-2006]**

Before any plumbing/electrical work is concealed, it shall be subjected to all tests called for in the plumbing/electrical standards of the State Uniform Fire Prevention and Building Code, in the presence of the Fire Marshal/Building Inspector or his duly appointed representative, and no plumbing/electrical work shall be concealed or put into use until the tests have been made and all requirements of said code have been complied with and the Inspector has given his approval.

**§ 198-13. Standards.**

All plumbing/electrical work shall conform in all respects to the plumbing/electrical standards of the State Uniform Fire Prevention and Building Code and such additional standards and requirements as the Town of Henrietta may now or hereafter impose.

**§ 198-14. Fees.**

Refer to current fee schedule approved by the Town Board.

**§ 198-15. Definitions.**

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

**ELECTRICAL SYSTEM** — All materials, devices or appliances located for the purpose of conducting or safeguarding electrical current.

**PLUMBING SYSTEM** — the water system, drainage system, the vent system, fixtures and traps and hot-water heaters, including their respective connections, devices and appurtenances within the property line of the premises, except that septic tank systems are excluded, these being subject to permits and approval of the Monroe County Health Department.

**§ 198-16. Penalties for offenses.**

It shall be unlawful to perform or cause to be performed any plumbing/electrical work except upon compliance with the requirements of this article, as amended. If any person shall perform or cause to be performed plumbing/electrical work without a permit or if any person shall install or cause to be installed plumbing/electrical work that does not conform to the plumbing/electrical standards of the State Uniform Fire Prevention and Building Code or other applicable regulations, he shall be guilty of a violation and, upon conviction thereof, shall be fined a minimum of \$250 up to a maximum fine of \$1,000 or imprisoned for not more than one year, or both; provided, however, that no property owner or lessee of premises on which plumbing/electrical work is performed shall be convicted hereunder except upon evidence that such property owner or lessee personally participated in or performed the plumbing/electrical work alleged to be in violation of this article or had actual knowledge that work was done in violation thereof.





## **Chapter 202**

### **PROCUREMENT POLICY**

**§ 202-1. Review of prospective purchases.**

**§ 202-2. Formal bids required.**

**§ 202-3. Manner of purchase.**

**§ 202-4. Award of purchase or contract to lowest bidder; exceptions.**

**§ 202-5. Inability to obtain required proposals or quotes.**

**§ 202-6. Circumstances where written proposals are not required.**

**§ 202-7. Annual review of policy.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 1-1-2001. Amendments noted where applicable.]**

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**§ 202-1. Review of prospective purchases.**

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

**§ 202-2. Formal bids required.**

All purchases during the same year of supplies or equipment exceeding \$10,000 or public works contracts over \$20,000 shall be formally bid pursuant to General Municipal Law § 103.

**§ 202-3. Manner of purchase.**

All estimated purchases or contracts of:

- A. Three hundred dollars or less shall be left to discretion of the purchaser.
- B. One thousand dollars or less but greater than \$300 require two oral requests and oral/fax quotes from vendors.
- C. Two thousand five hundred dollars or less but greater than \$1,000 require oral requests with three oral/fax quotes from vendors.
- D. Over \$2,500 require written requests for goods/services and three written/fax quotes from vendors, whenever possible.

**§ 202-4. Award of purchase or contract to lowest bidder; exceptions.**

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

**§ 202-5. Inability to obtain required proposals or quotes.**

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

**§ 202-6. Circumstances where written proposals are not required.**

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

- A. Acquisition of professional services.
- B. Emergencies.
- C. Sole source situations.
- D. Goods purchased from agencies for the blind or severely handicapped.
- E. Goods purchased from correctional facilities.
- F. Goods purchased from another governmental agency.
- G. Goods purchased at auction.
- H. Goods purchased for less than \$300.
- I. Public works contracts for less than \$500.
- J. Purchases from county or state contracts.

**§ 202-7. Annual review of policy.**

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

## **Chapter 205**

### **PROPERTY MAINTENANCE**

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| <p>§ 205-1. Title.</p> <p>§ 205-2. Applicability.</p> <p>§ 205-3. Definitions.</p> <p>§ 205-4. Effect on other regulations.</p> <p>§ 205-5. Open areas and parking spaces.</p> <p>§ 205-6. Business units.</p> <p>§ 205-7. Buildings and structures.</p> <p>§ 205-8. Infestation and screening.</p> | <p>§ 205-9. Littering; abandoned refrigerators; receptacles.</p> <p>§ 205-10. Motor vehicle repair or service stations.</p> <p>§ 205-11. Composting.</p> <p>§ 205-12. Responsibilities of occupants.</p> <p>§ 205-13. Responsibilities of owners.</p> <p>§ 205-14. Penalties for offenses.</p> <p>§ 205-15. Notice to perform work; failure to comply; reimbursement for costs.</p> |
|---|---|

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 5-16-1979. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Building and development — See Ch. 48.	Lighting — See Ch. 150.
Unsafe buildings — See Ch. 56.	Abandoned, junked and unlicensed vehicles — See Ch. 207.
Drainage — See Ch. 84.	Junk storage — See Ch. 209.
Fire prevention — See Ch. 119.	Solid waste — See Ch. 234.
Lawns — See Ch. 148.	

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#### **§ 205-1. Title.**

This chapter shall be known as the "Property Maintenance Ordinance" of the Town of Henrietta.

#### **§ 205-2. Applicability.**

All residential, commercial and industrial premises within the Town of Henrietta, whether improved or vacant, shall be maintained in conformity with the provisions of this chapter.

#### **§ 205-3. Definitions.**

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

**BUSINESS UNIT** — A building or combination of buildings and the lot on which the same is located, used wholly or in part for commercial purposes, including but not limited to offices, places of public assembly, shopping centers, supermarkets, retail stores, warehouses, manufacturing or fabrication plants, gasoline stations and other business uses.

**COMPOSTING** — The process through which organic materials, such as grass and leaves, are reduced to humus through organic activity for use as a soil amendment, fertilizer or mulch.<sup>1</sup>

**COMPOST PILE** — A mixture of decaying organic matter consisting of grass clippings, leaves, and brush when placed in an area to encourage rapid conversion of the constituents into nutrient material used for fertilizing and conditioning land.<sup>2</sup>

**GARBAGE** — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

**INFESTATION** — The presence of insects, rodents, vermin or other pests.

**LITTER** — Garbage, refuse and rubbish as herein defined and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**LOT** — A plot, tract, premises or parcel of land with or without buildings or structures located thereon, as surveyed and apportioned for sale or other purpose.

**REFUSE** — All putrescible and nonputrescible solid wastes, including garbage, rubbish, ashes, street cleanings, dead animals, junked vehicles and solid market and industrial wastes.

**RUBBISH** — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as papers, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

**UNOCCUPIED HAZARD** — Any building or part thereof which remains unoccupied for a period of more than 90 days with either doors, windows or other openings broken, removed, boarded or sealed up or any building under construction upon which little or no construction work has been performed for a period of more than 90 days.

**YARD** — An open space on the same lot which contains a building and is located between the building line and the lot line which the particular building line faces.

#### **§ 205-4. Effect on other regulations.**

The provisions of this chapter shall supplement local laws, ordinances, codes or regulations existing in the Town of Henrietta and the other statutes and regulations of municipal authorities having jurisdiction applicable thereto. Where a provision of this chapter is found to be in conflict with any provision of a local law, ordinance, code or regulation, the provision or requirement which is more restrictive or which establishes the higher standard shall prevail.

#### **§ 205-5. Open areas and parking spaces.**

- A. Surface or subsurface water shall be appropriately drained to protect buildings and structures and to prevent the development of stagnant ponds. Gutters, culverts, catch

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1. Editor's Note: Adoption pending.

2. Editor's Note: Adoption pending.

basins, drain inlets, stormwater sewers or other satisfactory drainage systems shall be utilized where necessary. No roof, surface or sanitary drainage shall create a structural, safety or health hazard by reason of construction, maintenance or manner of discharge. No drainage shall directly discharge onto any neighboring property.<sup>3</sup>

- B. Fences and other minor construction shall be maintained in a safe and substantial condition.
- C. Steps, walks, driveways, parking spaces, private roadways and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions. Any holes or other hazards that may exist shall be filled and necessary repairs or replacement carried out.<sup>4</sup>
- D. Yards and vacant lots shall be kept clean and free of physical hazards, rodent harborage and infestation. They shall be maintained in a manner that will prevent dust or other particles from being blown about the neighborhood. Open wells, cesspools or cisterns shall be securely closed or barricaded from access to the public.
- E. Heavy undergrowth and accumulation of plant growth which is noxious or detrimental to health shall be eliminated. Ground cover, including grass lawns, shall not exceed six inches in height. [Amended 6-7-1989<sup>5</sup>]

**§ 205-6. Business units.**

- A. Business units, as defined herein, shall at all times be maintained in compliance with the provisions of this chapter regulating open spaces, buildings or structures and littering.
- B. No outside storage or accumulation of garbage, crates, rubbish, refuse or debris shall be permitted at any time, and all such garbage, crates, rubbish, refuse or debris shall be kept inside the building or buildings, on the premises or in an acceptable enclosure and shall be regularly collected and removed from the premises.
- C. Shopping baskets, carts or wagons shall not be left unattended or standing in open areas and shall be collected at the close of business each day by the occupant of such unit and removed to the interior of the building or buildings.
- D. No mobile refrigeration unit shall be operated on the premises after the closing of the business conducted thereon unless such mobile refrigeration unit is electrically operated.
- E. All fences and planting areas installed on the premises shall be maintained by the owner of the property. Such maintenance shall include but not be limited to the replacement of trees and shrubs which may die and/or otherwise be destroyed, the maintenance and cutting of lawns and the replacement and/or repair of fences which may become in disrepair.

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3. Editor's Note: Adoption of amendments pending.

4. Editor's Note: Adoption of amendments pending.

5. Editor's Note: Adoption of amendments pending.

**§ 205-7. Buildings and structures.**

- A. All exterior exposed surfaces not inherently resistant to deterioration shall be repaired, coated, treated or sealed to protect them from deterioration or weathering.
- B. Exterior walls, roofs and porches or appurtenances thereto shall be maintained in a manner so as to prevent the collapse of the same or injury to the occupants of the building or to the public.
- C. The foundation walls of every building shall be maintained in good repair and shall be structurally sound.
- D. Exterior walls, roofs and all openings around doors, windows, chimneys and other parts of a building shall be so maintained as to keep water from entering the building and to prevent undue heat loss from occupied areas. Materials which have been damaged or show evidence of dry rot or other deterioration shall be repaired or replaced and refinished in a workmanlike manner. Exterior walls, roofs and other parts of the building shall be free from loose and unsecured objects and material and improperly secured objects and material. Such objects or materials shall be removed, repaired or replaced.
- E. The owner of a vacated building shall take such steps and perform such acts as may be required of him from time to time to ensure that the building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property or to the public. All openings shall be provided with painted, exterior-grade plywood closures, securely fastened.
- F. Buildings and structures shall be maintained in such a condition that they shall not become unoccupied hazards as defined in this chapter. All graffiti or defacing shall be removed and the surface finish restored within a five-day period.
- G. All signs and lighting systems shall be maintained in a completely operable, clean and safe condition.
- H. All decorative pools and similar devices shall be maintained free of litter and operated as intended. Should the maintenance costs of such devices prove unacceptable, the device shall be converted to landscaped planting beds.

**§ 205-8. Infestation and screening.**

- A. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform with generally accepted practice.
- B. Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.

**§ 205-9. Littering; abandoned refrigerators; receptacles.**

- A. Residential, commercial and industrial premises, whether improved or vacant, shall be maintained free of litter; provided, however, that this subsection shall not prohibit the storage of litter in authorized private receptacles for collection.
- B. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse in accordance with the provisions of applicable codes.
- C. No refrigerator may be discarded, abandoned or stored in a place accessible to children without first completely removing any locking devices and all doors.
- D. Dumpsters and similar large receptacles shall be shielded from the public view by means of appropriate landscaping or architectural screening. Doors to dumpster enclosures shall remain closed when the dumpster is not in the process of being emptied.<sup>6</sup>
- E. Shopping centers, supermarkets and similar business units shall provide permanent, attractive, decorated litter receptacles within the premises for public use in sufficient quantity to prevent a person from walking in excess of 50 feet to use any such receptacle.

**§ 205-10. Motor vehicle repair or service stations. <sup>7</sup>**

- A. No motor vehicle repair or service station shall openly store or cause to be stored any vehicle which is not actively being repaired or serviced nor any unregistered/unlicensed vehicles for more than three days. An exception may be made when adequate documentation is provided to a code official verifying the need to store a particular vehicle(s), including, but not limited to, a valid or current mechanic's lien, service contract or similar documentation.
- B. Any vehicle that is determined by a code official to be stored in violation of this section shall be removed from the property.
- C. This section shall immediately apply to all motor vehicle repair and service stations upon adoption.

**§ 205-11. Composting. <sup>8</sup>**

- A. Composting shall be allowed in residential districts only.
- B. Compost piles/areas may be no larger than eight feet long by eight feet wide and four feet high.
- C. Compost piles/areas shall be a minimum of 10 feet from any property line.

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6. Editor's Note: Adoption of amendments pending.

7. Editor's Note: Adoption pending. See also Ch. 207, Vehicles: Abandoned, Junked and Unlicensed.

8. Editor's Note: Adoption pending.

- D. Compost piles/areas shall be contained on at least three sides with brick, block, wire fencing, store-bought bins, or a similar method of containment. For those containment areas with three sides, the open side must face the property on which the compost is located.
- E. Compost piles shall be maintained so as to prevent unpleasant odors from becoming a nuisance to neighbors.
- F. Compost piles may not contain any of the following items:
  - (1) Any household items that contain meat, fish, bones, fatty foods, grease, oils, lard, etc.
  - (2) Animal wastes, including feces, cat litter or any animal matter or carcasses.
  - (3) Coal ash.
  - (4) Dairy products such as butter, yolks, milk, yogurt, etc.
  - (5) Any item or material not recommended for composting by county, state or federal agencies.

#### **§ 205-12. Responsibilities of occupants. <sup>9</sup>**

An occupant of the premises shall be responsible for compliance with this chapter in regard to the following:

- A. Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.
- B. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities, in that part of the premises which he occupies or controls, in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
- C. Keeping exits from his building clear and unencumbered.
- D. Disposal of garbage and refuse into provided facilities in a clean and sanitary manner in accordance with the provisions of the Town.
- E. The installation and removal of required screens.
- F. Keeping his domestic animals and pets in an appropriate manner and under control.
- G. Elimination of all prohibited uses for that part of the premises which he occupies, controls or has accessibility thereto.

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<sup>9</sup>. Editor's Note: Amendments pending adoption. Original § 205-12 of the 2001 Code, Wrecked or unlicensed vehicles, added 4-6-1988, was repealed 9-6-2006 by L.L. No. 3-2006. (See now Ch. 207, Vehicles: Abandoned, Junked and Unlicensed.)



**§ 205-13. Responsibilities of owners. [Amended 2-15-2006 by L.L. No. 1-2006]**

- A. Owners of premises shall be responsible for compliance with the provisions of this chapter and shall remain responsible therefor regardless of the fact that this chapter may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.
- B. Owners and operators of buildings shall be responsible for the proper installation, maintenance, condition and operation of service facilities and for furnishing adequate heat and hot water supply where they have contracted to do so.
- C. Whenever any person or persons shall be in actual possession of or have charge, care or control of any property within the Town as executor, administrator, trustee, guardian, operator or agent, such person shall be deemed and taken to be the owner or owners of said property within the true intent and meaning of this chapter and shall be bound to comply with the provisions of this chapter to the same extent as the record owner, and notice to any such person of any order or decision of the Fire Marshal/Building Inspector shall be deemed and taken to be a good and sufficient notice, as if such person or persons were actually the record owner or owners of such property. In instances where an occupant is responsible or shares responsibility with the owner for the existence of one or more violations of this chapter, said occupant shall be deemed and taken to be an owner within the true intent and meaning of this chapter.
- D. Owners and operators shall be responsible for the extermination of insects, rodents or other pests within their premises.<sup>10</sup>
- E. Owners and operators shall be responsible for the maintenance of yards, lawns and courts in a clean, sanitary and safe condition and free from infestation.<sup>11</sup>

**§ 205-14. Penalties for offenses. [Added 4-6-1988; amended 6-20-2001 by L.L. No. 3-2001<sup>12</sup>]**

A violation of this chapter or any section or provision thereof shall be an offense and shall be punishable, upon conviction thereof, by a maximum fine of \$1,000, imprisonment not to exceed one year, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation. These penalties shall be in addition to the other remedies of the Town Board provided by this chapter.

**§ 205-15. Notice to perform work; failure to comply; reimbursement for costs. [Amended 9-6-2006 by L.L. No. 3-2006]**

- A. Whenever the Town Board learns of any violation of this chapter, the Town Board may adopt a resolution requiring the owner or occupant, or both, as the case may be, of the

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10. Editor's Note: Adoption pending.

11. Editor's Note: Adoption pending.

12. Editor's Note: Amendments pending adoption.

premises with regard to which a violation has occurred to remedy such violation, specifying the nature of the work to be done and the time within which it shall be completed. A notice of the adoption of such resolution shall be served upon such owner or occupant, or both, by registered or certified mail addressed to his or their last known address. When a notice to perform work is served by registered or certified mail, then an additional copy of the notice shall be posted on the premises.

B. The notice shall be in substantially the following form:

To the owner, occupant or person having charge of land within the Town of Henrietta briefly described as follows: (Here describe the subject property.) Notice is hereby given that certain violations of the Code of the Town of Henrietta currently exist at the aforementioned property, namely: (Here cite Code sections violated and describe the work that must be performed to remedy the violations.) and constitutes a public nuisance in the Town of Henrietta. These violations must be remedied by performing the work stated above within 30 days from the date of this notice. If said work is not performed and said violations are not remedied on or before the expiration of said 30 days from the date hereof, you are hereby summoned to appear before the Town Board of the Town of Henrietta, New York, at ....m. o'clock, on the .... day of ..... 20 ...., at which time a hearing will be held to determine whether the conditions on the property constitute a public nuisance and why the Town of Henrietta, New York, acting through its duly authorized agents, servants, officers and employees, should not enter upon said property and perform said work. In the event that the Town Board directs that said work be performed the expense incurred by the Town of Henrietta shall be assessed against said property and shall constitute a lien thereon and be collected in the manner provided by law.

Dated: \_\_\_\_\_

Town Board of the Town of Henrietta

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- C. Whenever such notice has been served upon such owner or occupant, or both, of the respective premises and such owner or occupant shall neglect or fail to comply with the requirements of such notice within the time provided therein, the Town Board shall conduct a hearing before the Town Board, the date, time and place of which must be included in the original notice to perform work. The purpose of the hearing shall be to determine the existence of the violations and whether there was a failure to remedy or repair same.
- D. Whenever such notice has been served upon such owner or occupant, or both, of the respective premises and such owner or occupant shall neglect or fail to comply with the requirements of such notice within the time provided therein, the Town Board, or its duly authorized agents or employees, shall cause such notice to be filed in the office of the County Clerk in the same manner as a notice of pendency pursuant to Article 65 of the New York Civil Practice Law and Rules.
- E. Whenever such notice is issued, the Town Board shall also authorize an inspection and report of the subject premises by an official duly appointed by the Town Board. Said

official shall prepare a written report and appear at any hearing authorized in this section to offer verbal testimony regarding the same.

- F. After said hearing, if the Town Board determines that such owner or occupant neglected or failed to comply with the requirements of such notice within the time provided therein, the Town Board shall authorize the work to be done and pay the cost thereof out of general Town funds to be appropriated by the Town Board for such purposes.
- G. The Town shall be reimbursed for the cost of the work performed or services rendered, by the direction of the Town Board as herein provided, by assessment and levy upon the lots or parcels of land wherein such work was performed or such services rendered. The expenses so assessed shall constitute a lien and charge on the real property on which they are levied, until paid or otherwise satisfied or discharged, and shall be collected in the same manner and at the same time as other Town charges.



## Chapter 207

### VEHICLES: ABANDONED, JUNKED AND UNLICENSED

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| <p>§ 207-1. Findings.</p> <p>§ 207-2. Definitions.</p> <p>§ 207-3. Open storage restricted.</p> <p>§ 207-4. Exceptions.</p> <p>§ 207-5. Inspections.</p> <p>§ 207-6. Removal notice procedure.</p> <p>§ 207-7. Appearance tickets.</p> <p>§ 207-8. Alternative notice.</p> | <p>§ 207-9. Enforcement.</p> <p>§ 207-10. Presumption of violation.</p> <p>§ 207-11. Farm vehicles.</p> <p>§ 207-12. Parking or storing of legal vehicles in residential district restricted to driveways and driveway extensions.</p> <p>§ 207-13. Penalties for offenses.</p> |
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**[HISTORY: Adopted by the Town Board of the Town of Henrietta 9-6-2006 by L.L. No. 3-2006. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Property maintenance — See Ch. 205.  
Junk storage — See Ch. 209.

Solid waste — See Ch. 234.

#### § 207-1. Findings.

The outdoor storage of abandoned, junked, discarded, or unlicensed vehicle or vehicles or parts or pieces thereof on privately owned property within the Town of Henrietta is detrimental to the health, safety and general welfare of the community; it constitutes an attractive nuisance to children and in many ways imperils their safety. Such storage also endangers the person and property of all members of the community, since fuel tanks still containing gasoline or gasoline fumes may easily explode; the junks are replete with broken glass and sharp torn metal edges and points and generally are stored or abandoned with batteries containing harmful acids. These are but a few of the obvious sources of danger found on such vehicles. Such storage, moreover, is unsightly; depreciates not only the property on which it is located but also the property of others in the neighborhood and the Town generally and certainly constitutes a blight on the Town's landscape. Furthermore it is found that the storage of an excessive amount of legal vehicles in residential areas constitutes an attractive nuisance to children. Such excessive storage is unsightly and depreciates not only the property on which it is located, but also the property of others in the neighborhood and the Town generally. The control of the outdoor storage of abandoned, junked, discarded, or unlicensed vehicle or vehicles or parts or pieces thereof on privately owned property as well as excessive storage of legal vehicles on privately owned residential property within the Town of Henrietta is, therefore, regulated for the preservation of the health, safety and general welfare of the community. The intent of this chapter is to establish a legal procedure for the removal of these abandoned, junked, discarded, or unlicensed vehicle or vehicles or parts or pieces thereof as well as excessive storage of legal vehicles on privately owned residential property where they are found in the Town in violation of this chapter.

**§ 207-2. Definitions.**

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

**ABANDONED VEHICLE** — The intent of the owner shall be determined by the physical condition of the vehicle; statements of the owner as to its abandonment; the length of time since the vehicle has last been used on the highway; whether the vehicle is currently licensed, registered or inspected; and other relevant facts. With respect to a vehicle not required to be licensed or a vehicle not usually used on public highways, the intent of the owner shall be determined by the physical condition of the vehicle, the length of time since it was last used for the purpose intended, any statement as to its abandonment by the owner, and other relevant facts.

**DISCARDED VEHICLE(S)** — Any vehicle(s) which the owner thereof, as established by the surrounding circumstances, relinquishes ownership and possession of and any vehicle(s) the owner of which cannot be found after reasonable inquiry.

**ENCLOSURE** — A completely enclosed privacy-type structure or fence constructed of wood, metal or masonry, which shall be at least six feet in height and not more than eight feet in height and of such construction and type that an ordinary person of ordinary height and eyesight cannot see into the enclosure. Such enclosure shall be adequately maintained so as not to create an eyesore to the community.

**ENFORCEMENT OFFICER** — The Code Enforcement Officer(s), the Zoning Officer, the Fire Marshal, or any peace officer or police officer whose powers and duties are within or include the Town of Henrietta.

**JUNK VEHICLE** — Any vehicle which, for any reason, is incapable, without repair, of being moved or propelled by application of internal power, if it is a vehicle originally designed to be propelled by internal power, or is incapable, without repair, of being drawn or towed, if it is a vehicle originally designed to be towed or drawn from behind an internally powered vehicle, and, as adjudged by the standards of an ordinary reasonable person, is unsightly in appearance because of the existence of one or more conditions, such as but not limited to the following: deterioration by rust of the body; deterioration of the exterior finish of the vehicle; broken windows; absence of component parts of the vehicle (such as fenders, panels, doors, bumpers, headlights, hood, trunk door, tires, wheels, grille, roof or tailgate); physical damage (such as dents, cracks, scrapes or holes) to component parts of the vehicle; and absence of interior components (such as seats, dashboard or interior door moldings), or is incapable of being moved or propelled, drawn or towed without repair as provided for hereinabove and has remained situate on any real property for a period in excess of 30 days.

**LEGAL VEHICLE** — A vehicle for which a registration is required and which has a current registration in effect and current registration plates affixed thereto. **[Added 10-5-2011 by L.L. No. 2-2011]**

**OPEN STORAGE** — Storage other than in a completely enclosed structure constructed of wood, masonry or metal.

**OWNER OF PRIVATE PROPERTY** — The legal owner, contract purchaser, tenant, lessee, occupant, subtenant, trustee, bailee, receiver or assignee of premises or real property located within the Town of Henrietta.

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**OWNER OF VEHICLE** — The person having the property and/or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest of another person, and also including any lessee or bailee of a vehicle having the use thereof under lease or otherwise.

**PERSON** — An individual, firm, partnership, association, corporation, company or organization.

**TOWN** — All areas within the Town of Henrietta, both publicly and privately owned.

**UNLICENSED VEHICLE** — Any vehicle which may be licensed or registered for operation on public highways and which has not been registered or for which the registration plates for the current year have not been issued and affixed thereto.

**VEHICLE** — Any means of transport or conveyance operated, driven, drawn or capable and intended to be operated, drawn or driven upon a public highway by a power other than muscular power. A "vehicle" shall include but not be limited to automobiles, motorcycles, motorbikes, buses, all types of trailers, including trailers used for storage, trucks, tractors, mobile homes, other than those legally in use in an authorized mobile home park, recreational vehicles, snowmobiles, all-terrain vehicles and jitneys or any other contraption originally designed and intended for travel on the public highways.

### **§ 207-3. Open storage restricted.**

- A. It shall be unlawful for any person, firm or corporation, either as a private property owner, vehicle owner, occupant, lessee, agent, tenant or otherwise, to openly store or deposit or cause or permit to be openly stored or deposited an abandoned, junked, discarded, or unlicensed vehicle or vehicles or parts or pieces thereof on any private property within the Town of Henrietta, except as permitted by General Municipal Law § 136 or by this chapter.
- B. Storage or parking of commercial vehicles over 10,000 pounds' gross vehicle weight (GVW) (trucks and tractor-trailer combinations) is prohibited in Residential (R) Districts except for loading or unloading.

### **§ 207-4. Exceptions.**

Notwithstanding the foregoing section, a vehicle which is both not licensed and inspected as provided in the foregoing section may, for a period of not more than 30 consecutive days, be displayed in public view for sale, provided that the vehicle is stored on an adequately maintained paved or stone surface. The owner of such vehicle must be an owner/occupant of the lot on which said vehicle is so offered for sale, and at no time shall there be more than one such vehicle for sale on any lot at one time. No more than two vehicle(s) shall be so offered for sale on any lot during any twelve-calendar-month period.

### **§ 207-5. Inspections.**

The Town of Henrietta Enforcement Officer shall have the right to enter and inspect, at any reasonable hour, any premises on which vehicle(s) are openly stored and to inspect such

vehicle(s) to determine if the same are a hazard to the health and welfare of the community. This right of entry shall not be limited in any way by the existence or lack of existence of a request, authorization or other consent or approval of entry for inspection.

**§ 207-6. Removal notice procedure.**

The enforcement officer, upon detecting a violation of this chapter, shall serve written notice, either personally or by mail, upon the owner, occupant or person having charge of such private property, ordering the removal therefrom of the abandoned, junked, discarded, or unlicensed vehicle or vehicles or parts or pieces thereof within 10 days from the date said notice is given. The enforcement officer may determine ownership of any parcel of land in the Town of Henrietta from the current assessment roll of the Town and may serve written notice upon the owner thereof by mailing such notice to said owner at the address listed on the current assessment roll. Such notice shall direct the person so served, regardless of the ownership of the vehicle(s) if the property owner or tenant is served, to terminate the open storage of such vehicle(s) within the Town within 10 days of receipt of said notice. In the event that the abandoned, junked, discarded, or unlicensed vehicle or vehicle(s) or parts or pieces thereof are not removed from the premises within the time required in the notice, the Town of Henrietta shall have the right to enter upon the premises and to remove, store and/or dispose of the abandoned, junked, discarded, or unlicensed vehicle or vehicles or parts or pieces thereof. The expense of such removal, storage and/or disposal shall be a lawful charge against the owner and occupant of the premises and may be collected, if necessary, in a civil action instituted in the name of the Town or in accordance with the provisions of § 207-13, Penalties for offenses, of this chapter.

**§ 207-7. Appearance tickets.**

In the event of noncompliance with the provisions of this chapter and after 10 days have elapsed from receipt of the written notice provided for in § 207-6, Removal notice procedure, the Code Enforcement Officer may issue an appearance ticket, returnable to the Town of Henrietta Justice Court at a date and time specified on the appearance ticket. The appearance ticket shall specify the alleged chapter violation and the date and time, and a description of the vehicle(s) involved, a copy of which shall be forwarded to the Town Justice and shall be accompanied by an information form detailing the violation and attempts made by the Code Enforcement Officer to achieve compliance.

**§ 207-8. Alternative notice.**

If the provisions of the foregoing sections are believed to be violated, the Code Enforcement Officer may serve a written notice, either personally or by registered or certified mail, upon the owner, occupant or person having charge of such private property to comply with the requirements of this chapter. If served by registered mail, certified mail or publication, then said notice shall also be posted conspicuously on the subject property. The Code Enforcement Officer may determine ownership of any parcel of land in the Town of Henrietta from the current assessment roll of the Town and may serve written notice upon the owner thereof by mailing such notice to the owner at the address listed on the current assessment roll. If the Code Enforcement Officer is unable to determine the ownership or address of the owner of



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said private property, such notification may be made by publishing the same in the official newspaper of the Town for two consecutive weeks. The notice shall be in substantially the following form:

To the owner, occupant or person having charge of land within the Town of Henrietta briefly described as follows: (Here describe the subject property.) Notice is hereby given that an abandoned, junked, discarded, or unlicensed vehicle or vehicles or parts or pieces thereof is stored or deposited on the above-described property in the Town of Henrietta. This vehicle must be removed therefrom within 15 days from the date of this notice; provided, however, that if this notice is served on you by publication, said vehicle shall be removed within 24 days from the first publication date of this notice. If such vehicle is not removed on or before the expiration of said 15 days from the date hereof or on or before the expiration of said 24 days from the date of this notice in the event that it is served on you by publication, you are hereby summoned to appear before the Town Board of the Town of Henrietta, New York, at ....m. o'clock, on the..... day of..... 20 ....., at which time a hearing will be held to determine why the Town of Henrietta, New York, acting through its duly authorized agents, servants, officers and employees, should not enter upon said property and remove, store and/or cause said vehicle to be destroyed. In the event that the Town Board directs that said vehicle be removed, stored and/or destroyed the expense incurred by the Town of Henrietta shall be assessed against said property and shall constitute a lien thereon and be collected in the manner provided by law.

Dated: \_\_\_\_\_

Town of Henrietta Code Enforcement

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**§ 207-9. Enforcement. [Amended 10-5-2011 by L.L. No. 2-2011]**

The Code Enforcement Officer may enforce this chapter by either issuing an appearance ticket returnable in the Town of Henrietta Justice Court, pursuant to § 207-7, Appearance tickets, or by removing said vehicle pursuant to the provisions of § 207-8, Alternative notice, or by invoking both enforcement provisions. Additionally, any duly sworn police officer or peace officer with jurisdiction in the Town of Henrietta may issue an appearance ticket returnable in the Henrietta Town Court for any violation of the provisions of this chapter.

**§ 207-10. Presumption of violation.**

There shall be a presumption that a person who has received the notice prescribed by § 207-8, Alternative notice, has openly stored or deposited or caused or permitted to be openly stored or deposited an abandoned, junked, discarded, or unlicensed vehicle or vehicles or parts or pieces thereof in said notice.

**§ 207-11. Farm vehicles.**

Any vehicle being actively used in farming operations shall be exempted from the provisions of this chapter, provided that:

- A. The vehicle is being used on private property and is being held for continuing operation on private property and is not being held primarily for nonoperating purposes.
- B. The vehicle, if not in a condition for legal operation on public highways, is in a condition so that it can be operated and so that such operation on private property will not be unduly dangerous to the operator, passengers or others.

**§ 207-12. Parking or storing of legal vehicles in residential district restricted to driveways and driveway extensions. [Amended 10-5-2011 by L.L. No. 2-2011]**

It shall be unlawful for any person, firm or corporation, either as a private property owner, vehicle owner, occupant, lessee, agent, tenant or otherwise, to openly store or deposit or cause or permit to be openly stored or deposited any legal vehicle on any real property located within a residential district of the Town on any portion of any lot or parcel other than a driveway or driveway extension as those terms are described in Henrietta Town Code Chapter 240, Streets, Sidewalks and Driveways. The parking, storing or depositing of legal automobiles and trucks shall be restricted to the driveway as described in Henrietta Town Code § 240-3J. The parking of other legal vehicles shall be allowed on a driveway or driveway extension as that term is described in Henrietta Town Code § 240-3K. Any aggrieved person or entity may seek relief from these restrictions by appeal to the Zoning Board of Appeals in accordance with the procedures and standards set forth in Chapter 295, Zoning, of the Henrietta Town Code and Article 16 of the New York State Town Law for area variances.

**§ 207-13. Penalties for offenses.**

A violation of this chapter or any section or provision thereof shall be an offense and shall be punishable, upon conviction thereof, by a minimum fine of \$100 up to a maximum fine of \$250 or imprisonment not to exceed 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation. These penalties shall be in addition to the other remedies of the Town Board provided by this chapter.

## **Chapter 209**

### **JUNK STORAGE**

**§ 209-1. Findings**

**§ 209-2. Applicability.**

**§ 209-3. Definitions.**

**§ 209-4. Prohibited acts.**

**§ 209-5. Exclusions.**

**§ 209-6. Enforcement.**

**§ 209-7. Complaints.**

**§ 209-8. Notice to comply.**

**§ 209-9. Appearance tickets.**

**§ 209-10. Alternative notice.**

**§ 209-11. Enforcement.**

**§ 209-12. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 9-6-2006 by L.L. No. 3-2006. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Property maintenance — See Ch. 205.

Abandoned, junked and unlicensed vehicles — See Ch. 207.

Solid waste — See Ch. 234.

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#### **§ 209-1. Findings**

A clean, wholesome and attractive environment is of vital importance to the continued general welfare of its citizens, and the deposit, accumulation, or maintenance of junk, regardless of quantity, is hereby prohibited anywhere within sight of persons lawfully traveling the public highways or within sight of neighboring property. By adoption of this chapter the Town of Henrietta declares its intent to preserve and promote a reasonable quality of environment and aesthetics and to prohibit actions and conduct that tend to depreciate not only the property on which said junk is located but also the property of other persons in the neighborhood and the community generally.

#### **§ 209-2. Applicability.**

The provisions of this chapter shall apply in addition to the provisions of any other local law or ordinance adopted by the Town of Henrietta. Where there is a conflict the more restrictive provision shall apply.

#### **§ 209-3. Definitions.**

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

**ENFORCEMENT OFFICER** — The Code Enforcement Officer(s), the Zoning Officer, the Fire Marshal, or any peace officer or police officer whose powers and duties are within or include the Town of Henrietta.

**GARBAGE** — All putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including any container in which packaged.

**JUNK** — Worn out or discarded material of little or no value, including but not limited to a junk appliance, junk furniture, junk mobile home, junk motor vehicle or garbage, rubbish and debris.

**OUTDOOR STORAGE** — The placing, maintaining or keeping of junk, rubbish, clutter, litter or debris in a place other than a structure with a roof and fully enclosed on all sides.

**RUBBISH, CLUTTER, LITTER AND DEBRIS** — Ordinary household or commercial trash such as paper and paper products, barrels, cartons, boxes, cardboard, cans, glass, metals, machinery, plastics, rubber, crates, furniture, rugs, clothing, rags, mattresses, blankets, cigarettes, ashes, street cleanings, dead animals, yard clippings, leaves, wood, tires, lumber, brick, stone and other building materials no longer intended or in condition for ordinary use; and any and all tangible personal property no longer intended or in condition for ordinary and customary use.

#### **§ 209-4. Prohibited acts.**

It shall be unlawful for any person to store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors any junk, clutter, litter and debris, regardless of quantity, anywhere within sight of persons lawfully traveling the public highways or within sight of neighboring property within the Town of Henrietta; provided, however, that this section shall not prohibit the storage of garbage, rubbish, clutter, litter and debris in authorized private receptacles for collection.

#### **§ 209-5. Exclusions.**

This chapter shall not apply to the storage or placement on the premises of the following material:

- A. Wood intended for consumption in a wood-burning stove, furnace or fireplace located in a building on the premises.
- B. Lawn or yard or garden ornaments and implements.
- C. Lawn and patio furniture.
- D. Operable farm, garden and yard machinery and apparatus used on the premises.
- E. Standing fences.
- F. Hoses and sprinklers used for watering lawns or gardens.
- G. Storage or placement and accumulation of materials in connection with a commercial operation duly conducted on the premises where such storage, placement and accumulation is expressly permitted by the laws of the Town of Henrietta.

- H. Construction materials and equipment used for the construction and renovation of a building on the premises for which a building permit has been issued.

**§ 209-6. Enforcement.**

This chapter may be enforced by any enforcement officer of the Town of Henrietta. Said persons shall have the authority to enforce the provisions of this chapter and to inspect premises within the municipality as necessary for said enforcement.

**§ 209-7. Complaints.**

Any person may file a complaint with the enforcement officer that a violation of this chapter may have taken place. The enforcement officer shall properly record and investigate any such complaint. The enforcement officer may also investigate any alleged violation that he or she has reason to believe has occurred or is occurring.

**§ 209-8. Notice to comply.**

The enforcement officer, upon detecting a violation of this chapter, shall serve written notice, either personally or by mail, upon the owner, occupant or person having charge of such private property, stating the facts by which it is alleged there is a violation of this chapter and ordering that the junk be removed or placed so as to be in compliance with the law within 10 days from the date said notice is given. The enforcement officer may determine ownership of any parcel of land in the Town of Henrietta from the current assessment roll of the Town and may serve written notice upon the owner thereof by mailing such notice to said owner at the address listed on the current assessment roll. Such notice shall state that in the event that the junk is not removed or placed so as to be in compliance with the law within the time required in the notice, the Town of Henrietta shall have the right to either prosecute the matter in the Henrietta Justice Court or enter upon the premises and to remove and dispose of the junk. The expense of such removal and disposal shall be a lawful charge against the owner and occupant of the premises and may be collected, if necessary, in a civil action instituted in the name of the Town or in accordance with the provisions of § 209-12, Penalties for offenses, of this chapter.

**§ 209-9. Appearance tickets.**

In the event of noncompliance with the provisions of this chapter and after 10 days have elapsed from receipt of the written notice provided for in § 209-8, Notice to comply, the Code Enforcement Officer may issue an appearance ticket, returnable to the Town of Henrietta Justice Court at a date and time specified on the appearance ticket. The appearance ticket shall specify the alleged chapter violation, the date and time and a description of the violation, a copy of which shall be forwarded to the Town Justice and shall be accompanied by an information form detailing the violation and the facts by which it is alleged there is a violation of this chapter.

**§ 209-10. Alternative notice.**

If the provisions of the foregoing sections are believed to be violated, the Code Enforcement Officer may serve a written notice, either personally or by registered or certified mail, upon the owner, occupant or person having charge of such private property to comply with the requirements of this chapter. If served by registered mail, certified mail or by publication, then said notice shall also be posted conspicuously on the subject property. The Code Enforcement Officer may determine ownership of any parcel of land in the Town of Henrietta from the current assessment roll of the Town and may serve written notice upon the owner thereof by mailing such notice to the owner at the address listed on the current assessment roll. If the Code Enforcement Officer is unable to determine the ownership or address of the owner of said private property, such notification may be made by publishing the same in the official newspaper of the Town for two consecutive weeks. The notice shall be in substantially the following form:

To the owner, occupant or person having charge of land within the Town of Henrietta briefly described as follows: (Here describe the subject property.) Notice is hereby given that certain junk, namely: (Here describe the conditions on the property) is stored or deposited on the above-described property and constitutes a public nuisance in the Town of Henrietta. This junk must be removed therefrom within 15 days from the date of this notice; provided, however, that if this notice is served on you by publication, said junk shall be removed within 24 days from the first publication date of this notice. If such junk is not removed on or before the expiration of said 15 days from the date hereof or on or before the expiration of said 24 days from the date of this notice in the event that it is served on you by publication, you are hereby summoned to appear before the Town Board of the Town of Henrietta, New York, at ....m. o'clock, on the day of ....., 20 ....., at which time a hearing will be held to determine whether the conditions on the property constitute a public nuisance and why the Town of Henrietta, New York, acting through its duly authorized agents, servants, officers and employees, should not enter upon said property and remove and cause said junk to be removed and destroyed. In the event that the Town Board directs that said junk be removed and destroyed the expense incurred by the Town of Henrietta shall be assessed against said property and shall constitute a lien thereon and be collected in the manner provided by law.

Dated: \_\_\_\_\_

Town of Henrietta Code Enforcement

\_\_\_\_\_

**§ 209-11. Enforcement.**

The Code Enforcement Officer may enforce this chapter by either issuing an appearance ticket returnable in the Town of Henrietta Justice Court, pursuant to § 209-9, Appearance tickets, pursuant to the provisions of § 209-10, Alternative notice, or by invoking both enforcement provisions.

**§ 209-12. Penalties for offenses.**

A violation of this chapter or any section or provision thereof shall be an offense and shall be punishable, upon conviction thereof, by a minimum fine of \$100 up to a maximum fine of \$250 or imprisonment not to exceed 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation. These penalties shall be in addition to the other remedies of the Town Board provided by this chapter.





## Chapter 212

### RECORDS

#### ARTICLE I Public Access to Records

- § 212-1. Title.
- § 212-2. Purpose and scope.
- § 212-3. Designation of records access officer.
- § 212-4. Location of records.
- § 212-5. Hours for public inspection.

- § 212-6. Requests for public access to records.
- § 212-7. Subject matter list.
- § 212-8. Denial of access to records.
- § 212-9. Fees; redaction.
- § 212-10. Public notice.

#### ARTICLE II Retention and Disposition

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

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#### ARTICLE I Public Access to Records [Adopted 6-20-2001 by L.L. No. 3-2001]

##### § 212-1. Title.

This article may be known and cited as the "Public Access to Records Law for the Town of Henrietta."

##### § 212-2. Purpose and scope.

- A. The people's right to know the process of government decision making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.
- B. These regulations provide information concerning the procedures by which records may be obtained.
- C. Personnel shall furnish to the public the information and records required by the Freedom of Information Law, as well as records otherwise available by law.
- D. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

**§ 212-3. Designation of records access officer.**

- A. The Town Board of the Town of Henrietta is responsible for ensuring compliance with the regulations herein and designates the following person as records access officer: Town Clerk, 475 Calkins Road, Henrietta, New York, 14467.
- B. The records access officer is responsible for ensuring appropriate agency response to public requests for access to records. The designation of the records access officer shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- C. Records access officers shall ensure that personnel:
  - (1) Maintain an up-to-date subject matter list.
  - (2) Assist the requester in identifying requested records, if necessary.
  - (3) Upon locating the records, take one of the following actions:
    - (a) Make records available for inspection; or
    - (b) Deny access to the records in whole or in part and explain, in writing, the reasons therefor.
  - (4) Upon request for copies of records:
    - (a) Make a copy available upon payment or offer to pay established fees, if any, in accordance with § 212-9B; or
    - (b) Permit the requester to copy those records.
  - (5) Upon request, certify that a record is a true copy.
  - (6) Upon failure to locate records, certify that:
    - (a) The Town of Henrietta is not the custodian for such records; or
    - (b) The records of which the Town of Henrietta is a custodian cannot be found after a diligent search.

**§ 212-4. Location of records.**

Records shall be available for public inspection and copying at the Town Clerk's office, 475 Calkins Road, Henrietta, New York, 14467.

**§ 212-5. Hours for public inspection.**

Records shall be available for inspection during regular business hours as established by the Town Clerk.

**§ 212-6. Requests for public access to records. <sup>1</sup>**

- A. A written request is required.
- B. A request shall reasonably describe the records sought. Wherever reasonably possible, the request shall identify relevant dates, file designations, or any other information that may assist in responding to the request.
- C. If records are maintained on the internet, the requester shall be informed that the records are accessible via the internet and in printed form either on paper or other information storage medium.
- D. Time frame for response.
  - (1) A response shall be given within five business days of receipt of a request by:
    - (a) Informing a person requesting records that the request or portion of the request does not reasonably describe the records sought, including direction, to the extent possible, that would enable that person to request records reasonably described;
    - (b) Granting or denying access to records in whole or in part;
    - (c) Acknowledging the receipt of a request in writing, including an approximate date when the request will be granted or denied in whole or in part, which shall be reasonable under the circumstances of the request and shall not be more than 20 business days after the date of the acknowledgment; or if it is known that circumstances prevent disclosure within 20 business days from the date of such acknowledgment, providing a statement in writing indicating the reason for inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part; or
    - (d) If the receipt of request was acknowledged in writing and included an approximate date when the request would be granted in whole or in part within 20 business days of such acknowledgment, but circumstances prevent disclosure within that time, providing a statement in writing within 20 business days of such acknowledgment specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted in whole or in part.
  - (2) In determining a reasonable time for granting or denying a request under the circumstances of a request, personnel shall consider the volume of a request, the ease or difficulty in locating, retrieving or generating records, the complexity of the request, the need to review records to determine the extent to which they must be disclosed, the number of requests received by the Town, and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

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1. Editor's Note: Amendments pending adoption.

**§ 212-7. Subject matter list.**

- A. The records access officer shall maintain a reasonable, detailed current list by subject matter of all records in his/her possession, whether or not records are available pursuant to Subdivision 2 of § 87 of the Public Officers Law.
- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

**§ 212-8. Denial of access to records.**

- A. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.
- B. If requested records are not provided promptly, as required in § 212-6D of this article, such failure shall also be deemed a denial of access.
- C. The Town Supervisor shall hear appeals for denial of access to records under the Freedom of Information Law.
- D. Any person denied access to records may appeal within 30 days of denial. The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of a written appeal identifying:<sup>2</sup>
  - (1) The date of the appeal.
  - (2) The date and location of the requests for records.
  - (3) The records to which the requester was denied access.
  - (4) Whether the denial of access was in writing or due to failure to provide records promptly as required by § 212-6D.
  - (5) The name and address of the requester.
- E. The individual or body designated to hear appeals shall inform the requester of his/her or its decision in writing within 10 business days of receipt of an appeal.
- F. The person or body designated to hear appeals shall transmit to the Committee on Public Access to Records copies of all appeals upon receipt of appeals. Such copies should be addressed to:

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2. Editor's Note: Amendments pending adoption.

Committee on Public Access to Records  
 Department of State  
 State Street  
 Albany, New York 12231

- G. The person or body designated to hear appeals shall inform the appellant and the Committee on Public Access to Records of his/her or its determination in writing within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Public Access to Records in the same manner as set forth in Subsection F.

**§ 212-9. Fees; redaction.** <sup>3</sup>

- A. There shall be no fees charged for:
- (1) Inspection of records.
  - (2) Search for records.
  - (3) Any certification pursuant to this article.
- B. Fees for photocopies.
- (1) The fee for copies not exceeding nine inches by 14 inches made on the Town Clerk's copy machine is \$0.25 per page.
  - (2) The fee for copies of records other than photocopies which are nine by 14 inches or less in size shall be the actual copying cost excluding fixed agency costs, such as salaries.
- C. The Town has the authority to redact portions of a record prior to making a copy of such record, in accordance with New York law.
- D. The Town may charge a fee for a copy of any other record, based upon the actual cost of reproduction, and may include the following:
- (1) An amount equal to the hourly salary attributed to the lowest paid employee who has the necessary skill to prepare a copy of the requested record, but only when more than two hours of the employee's time are necessary; and
  - (2) The actual cost of storage devices or media provided to the person making the request; and
  - (3) The actual cost to the Town of engaging an outside professional service to respond to a request, but only when the Town's equipment is inadequate to respond, and only when such service is used to prepare the copy.
- E. When the Town has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, or when doing so requires less employee

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3. Editor's Note: Amendments pending adoption.

## § 212-9

## HENRIETTA CODE

time than engaging in manual retrieval or redactions from nonelectronic records, the Town shall be required to retrieve or extract such record or data electronically. In such case, the Town may charge a fee in accordance with Subsection D(1) and (2) above.

- F. The Town shall inform a person requesting a record of the estimated cost of preparing a copy of the record if more than two hours of a Town employee's time are needed, or if it is necessary to retain an outside professional service to prepare a copy of the record.
- G. The Town may require that the fee for copying or reproducing a record be paid in advance of the preparation of such copy.

**§ 212-10. Public notice.**

A notice containing the title or name and business address of the records access officer and appeals person or body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept or published in a local newspaper of general circulation.

## ARTICLE II

**Retention and Disposition**

**[In accordance with Arts and Cultural Affairs Law Article 57-A, the Town has adopted Records Retention and Disposition Schedule MU-1, which contains legal minimum retention periods for municipal government records. A copy of said schedule is on file in the Town offices. In accordance with Article 57-A, only those records will be disposed of that are described in records retention and disposition Schedule MU-1 after they have met the minimum retention period prescribed therein. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.]**

## Chapter 219

### SEWERS

#### ARTICLE I Sewer Rents

- § 219-1. Authority; purpose.
- § 219-2. Definitions.
- § 219-3. Household units.
- § 219-4. Rents established.
- § 219-5. Town Board to determine rents.
- § 219-6. Due date; statements; penalty.
- § 219-7. Use of revenue.

#### ARTICLE II Sewer Use

- § 219-8. Title.
- § 219-9. Purpose.
- § 219-10. Definitions; word usage.
- § 219-11. Issuance of permits; installation and connection.

- § 219-12. Use of public sewers for discharge of nondomestic wastes.
- § 219-13. Residential manhole covers.
- § 219-14. Repair and maintenance work.
- § 219-15. Ownership and maintenance of sewer laterals.
- § 219-16. Power and authority of inspectors.
- § 219-17. Enforcement and remedies; penalties for offenses.
- § 219-18. Inconsistent provisions.
- § 219-19. Delegation of supervisory function.

#### ARTICLE III Commercial Establishment Surcharge

- § 219-20. Sewer usage surcharge.

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

#### GENERAL REFERENCES

Building and development — See Ch. 48.  
Drainage — See Ch. 84.  
Plumbing — See Ch. 198.

Water — See Ch. 285.  
Design standards for storm drainage — See Ch. A300.

#### ARTICLE I Sewer Rents [Adopted 4-20-1955]

- § 219-1. Authority; purpose. <sup>1</sup>

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1. Editor's Note: Amendments pending adoption.

Pursuant to the authority of the Sewer Rent Law of the State of New York (Chapter 765 of the Laws of 1951),<sup>2</sup> and any and all amendments thereto, there are hereby established and imposed sewer rents as a means of producing revenue for Henrietta Sewer District No. 1 and its extensions in the Town of Henrietta.

### **§ 219-2. Definitions.**

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

**PART** — As used in relation to the term "sewer system," all lateral sewers, or all branch sewers, or all interceptor sewers, or all trunk sewers, and any sewage treatment and disposal works, and private on-site wastewater disposal systems, each part with necessary appurtenances including sewage pumping stations. **[Amended 6-20-2001 by L.L. No. 3-2001]**

**SEWAGE** — The water-carried human or animal wastes from residences, buildings, industrial establishments, or other places, together with such groundwater infiltration and surface water as may be present. The admixture with sewage as above defined of industrial waste or other wastes as hereafter defined also shall be considered "sewage" within the meaning of this article. **[Amended 6-20-2001 by L.L. No. 3-2001]**

**SEWER RENTS** — A scale of annual charges for residential property, and quarterly charges for nonresidential property, established and imposed in Henrietta Sewer District No. 1 and its extensions in the Town of Henrietta for the use of the sewer system or any part or parts thereof. **[Amended 6-18-2003 by L.L. No. 1-2003<sup>3</sup>]**

**SEWER SYSTEM** — All sewer pipes and other appurtenances which are used or useful in whole or in part in connection with the collection, treatment or disposal of sewage, industrial waste and other wastes and which are owned, operated or maintained by Henrietta Sewer District No. 1 and its extensions in the Town of Henrietta, including sewage pumping stations and sewage treatment and disposal works and private on-site wastewater disposal systems, if any. **[Amended 6-20-2001 by L.L. No. 3-2001<sup>4</sup>]**

### **§ 219-3. Household units.**

Household units shall be determined as follows:

- A. A single-family dwelling shall constitute one household unit.
- B. Premises occupied or designated to be occupied by two or more families, including "in-law"-type dwellings and multifamily dwellings of less than four units, shall constitute one household unit for each apartment or living quarters for a separate family unit contained in or on such premises. In the event that such premises also contain space not used for residence purposes, such space shall consist of such number of additional

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2. Editor's Note: See General Municipal Law § 450 et seq.

3. Editor's Note: Amendments pending adoption.

4. Editor's Note: Amendments pending adoption.



household units determined by dividing the annual water consumption in such space by 5,200 cubic feet. **[Amended 6-18-2003 by L.L. No. 1-2003]**

C. Nonresidential users.

(1) Charges. **[Amended 5-15-1957; 6-21-1967]**

- (a) All types of structures or premises not described in Subsections A and B of this definition, including but not limited to schools, churches, institutions, motels, apartment projects, stores and industrial and commercial establishments, shall be billed for sewer rental on the basis as set forth in § 219-4. **[Amended 2-5-1975; 12-20-1989; 6-18-2003 by L.L. No. 1-2003]**
- (b) Said charge applies to raw sewage which has a biochemical oxygen demand (as defined in § 219-9 of Article II, Sewer Use, of this chapter) of not more than 300 milligrams per liter by weight and not more than 350 milligrams per liter by weight of suspended solids and not having any of the characteristics described in § 219-11C of Article II. **[Amended 2-5-1975; 6-20-2001 by L.L. No. 3-2001]**
- (c) Where the raw sewage discharged by any such user has a biochemical oxygen demand in excess of 300 milligrams per liter by weight or contains more than 350 milligrams per liter by weight of suspended solids or has characteristics described in said § 219-11C, an additional charge per 100 cubic feet of water consumption will be imposed as determined by the Town Board. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- (d) The imposition and collection of such charges shall not be deemed a waiver of any of the provisions of § 219-11F of Article II, Sewer Use, or of any other requirements of said Article II, and shall not relieve the user of the duties imposed by said Article II.

- (2) The owner of any premises falling within the classification set forth in this Subsection C shall be allowed, at his own expense, to separately meter all water being used for sprinkling, washing, flushing or cooling operations which do not return water to the sanitary sewer system. Such an installation must be inspected and approved by the Henrietta Sewer District before being used. When so installed, inspected and approved, the number of household units for sewer rental purposes shall be determined by dividing the quarterly total of water metered to sewerable uses only on said premises by 1,700 cubic feet. Such premises, however, shall constitute a minimum of one household unit. **[Added 10-2-1957]**
- (3) The owner of any premises falling within the classification set forth in this Subsection C shall have the further alternative, at his own expense, to directly meter the sewage discharged through his sewer connection, using a special meter designed to handle sewage flow. This type of meter and its installation shall be inspected and approved by the Sewer District and shall be periodically inspected and read by the Sewer District. When so installed, inspected and approved, the number of household units for sewer rental purposes shall be determined by dividing the quarterly total of the sewage metered through the special sewage flow

on said premises by 1,700 cubic feet. Such premises, however, shall constitute a minimum of one household unit. **[Added 10-2-1957]**

- D. In the event that any parcel of real property entirely falls within more than one of the above classifications, that classification which produces the greatest number of household units shall be the one applicable. In the event any parcel of real property is divisible into one or more classifications, the number of household units in each classification shall be determined and the total thereof shall constitute the number of household units applicable to the entire parcel. **[Amended 6-20-2001 by L.L. No. 3-2001]**

#### **§ 219-4. Rents established.**

Sewer rents are hereby established and imposed for the Henrietta Sewer District No. 1, serving the sewer district now existing, those hereafter created and extensions of either, on behalf of said sewer districts.

#### **§ 219-5. Town Board to determine rents. [Amended 6-20-2001 by L.L. No. 3-2001]**

The Town Board shall annually fix and determine the amount of the sewer rental rent to be charged for each household unit in the respective sewer districts in the town. A schedule of the current rates is on file in the office of the Town Clerk.

#### **§ 219-6. Due date; statements; penalty. [Amended 7-18-1956; 6-18-2003 by L.L. No. 1-2003]**

- A. Sewer rents for residential property shall become due and payable annually and will be levied prospectively on property tax bills January 1 of each year. Sewer rents for nonresidential property shall become due and payable quarterly on February 1, May 1, August 1 and November 1 in each year.
- B. The Town Board, as Sewer Commissioners, shall quarterly cause a statement to be prepared setting the amount of the sewer rents for each of the nonresidential properties subject thereto and the name of the person in whose name such real property is assessed, which shall be mailed to said nonresidential taxpayer quarterly. Payments shall be collected according to the instructions printed on the bills.
- C. Should any quarterly sewer rent be in arrears for 30 days or longer, a penalty of 10% of the amount due shall be added to the amount of said rental due.
- D. All delinquent bills and penalties unpaid on September 30 of each year shall be added to the Town of Henrietta/Monroe County property tax bill of the property on which the sewer rent charge was incurred.

#### **§ 219-7. Use of revenue.**

Revenues derived from sewer rents shall be credited to a special fund to be known as the "Sewer Rent Fund." Moneys in such fund shall be used only in the manner and for the

purpose specified and in the order required by the Sewer Rent Law of the State of New York.<sup>5</sup>

**ARTICLE II**  
**Sewer Use**  
**[Adopted 7-21-1965]**

**§ 219-8. Title.**

This article shall be known as the "Sewer Use Ordinance."

**§ 219-9. Purpose.**

It is the purpose of this article to protect the sewage collection and treatment facilities, to prevent danger to life or damage to property, to promote the health, safety and general welfare, to prohibit the introduction of storm-, surface or subsurface waters into the sanitary sewers, to provide for the distribution of treatment costs and to form a basis and policy for controlling the quantity and quality of wastes accepted into the sewage systems of the sewer districts now or hereafter created in the Town of Henrietta, Monroe County, New York.

**§ 219-10. Definitions; word usage.**

- A. Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

BOD (denoting "biochemical oxygen demand") — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., express in milligrams per liter.

BUILDING DRAIN — That part of the lowest horizontal piping of a drainage system carrying sewage which receives discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building's sewer.

BUILDING SEWER (sometimes called "house lateral") — The extension from the building drain to the public sewer or other place of disposal.

COMMERCIAL-INDUSTRIAL WASTES — Any and all other wastes not being domestic wastes, including but not limited to wastes from commercial, laboratory and industrial processes and wastes from domestic operations or certain trade operations.  
**[Amended 10-15-1969]**

DOMESTIC WASTES — Waterborne human or animal excreta or body wastes and normal culinary, laundry and washing wastes originating in residences.

GARBAGE — Solid wastes from the preparation, cooking and dispensing of food and from handling, storage and sale of produce.

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5. Editor's Note: Former § 7, Amount of rents, which immediately followed this section and was last amended 12-20-1989, was deleted 6-20-2001 by L.L. No. 3-2001.

**NATURAL OUTLET** — Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**OWNER** — Any person in title to or having any interest in real property in any of the sanitary sewer districts and their extension or extensions and/or any drainage district or districts now existing or subsequently created by the Town Board of the Town of Henrietta, New York.

**PERSONS** — Any individual, firm, company, association, society, corporation or group.

**pH** — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter solution.

**PROPERLY SHREDDED GARBAGE** — The waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1/4 inch in any dimensions.

**PUBLIC SEWER** — A sewer which is controlled by the Town Board of the Town of Henrietta acting for any sewer district in said town.

**SANITARY SEWER** — A pipe or conduit which carries sewage and to which storm-, surface and ground waters are not intentionally admitted.

**SEWAGE** — The water-carried wastes from residences, commercial buildings, institutions and industrial establishments and other places.

**SEWAGE TREATMENT PLANT** — Any arrangement of devices and structures used for treating sewage under the control of the Town Board of the Town of Henrietta, Monroe County, New York.

**SEWAGE WORKS** — All facilities for collecting, pumping, treating and disposing of sewage.

**SEWER DISTRICT** — Any of the sanitary sewer districts and their extension or extensions and/or any drainage district or districts now existing or subsequently created by the Town Board of the Town of Henrietta.

**STORM SEWER or STORM DRAIN** — A sewer which carries storm- and surface water drainage but excludes sewage and commercial-industrial and domestic wastes.

**SUPERINTENDENT** — The Director of Engineering and Planning of the Town of Henrietta.<sup>6</sup>

**SUSPENDED SOLIDS** — Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filterings.

**TOWN BOARD OF THE TOWN OF HENRIETTA** — The governing body of all sewer districts in the Town of Henrietta.

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6. Editor's Note: Amendments pending adoption.

WATERCOURSE — A channel in which a flow of water occurs either continuously or intermittently.

- B. "Shall" is mandatory; "may" is permissive.

**§ 219-11. Issuance of permits; installation and connection.**

- A. The sewer systems of the sewer districts of the Town of Henrietta, New York, as constructed, or as hereafter added to or changed, shall be under the charge and control of the Town Board under whose supervision they shall be used by property owners, and no person shall enter into, open or interfere with or use or do any repair or maintenance work with respect to said sewer systems except under the inspection and direction of the Town Board or its authorized agents and after a written permit shall have been issued by the appropriate official designated by the Town Board. The Town Board shall adopt rules and regulations to govern the maintenance and use of the sewer systems and shall therein fix the amount of fees that shall be chargeable to persons or property owners who shall wish to enter or use the sewer systems. **[Amended 10-15-1969]**
- B. Present waste contributors who hold a sewer permit under existing regulations and whose use of the sewer system complies with the requirements of this article need not apply for permits under this article. Every present waste contributor whose use is in violation of this article shall bring his use into conformity with this article within 30 days after the effective date of this article and shall apply for a permit within 120 days after such effective date. Present waste contributors other than domestic users who do not hold a permit under existing regulations shall make application for a permit under this article within 120 days after such effective date.
- C. Permits granted under this article shall be for a specific waste or wastes, and such permits shall be granted only after the submission and approval of plans as set forth hereinafter. Subsequent wastes of different quantity, quality or characteristics shall be covered by separate permits.
- D. There shall be two classes of building sewer permits, one for domestic waste service and one for service to all other contributors. The owner or his agent shall make application on a form furnished by the Town Board. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit fee in an amount fixed in the rules and regulations for sewer districts in the Town of Henrietta shall be paid at the time the application is filed.
- E. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Town Board from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- F. A separate and independent building sewer shall be provided for every building.
- G. All construction of sanitary sewers, building sewers and storm sewers shall be constructed in accordance with the current issue of the Town of Henrietta "Sanitary Sewer Specifications." **[Added 4-4-1984]**

**§ 219-12. Use of public sewers for discharge of nondomestic wastes.**

- A. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, impounded water or unpolluted industrial process waters to any sanitary sewer.
- B. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Town Board. Industrial cooling water or other unpolluted process waters may be discharged upon approval of the Town Board to a storm sewer or natural outlet.
- C. Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:
- (1) Any liquid or vapor having a temperature lower than 32° F. or higher than 150° F.
  - (2) Any water or waste which may contain more than 100 milligrams per liter, by weight, of fats, oils or grease.
  - (3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  - (4) Any garbage that has not been properly shredded.
  - (5) Any ashes, cinders, sand, mud, grit, straw, animal wastes, shavings, metal, glass, rags, feathers, tar, plastics, wood, manure or any other solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewage works, in the opinion of the Town Board.
  - (6) Any water or wastes having a pH lower than 6.0 or higher than 9.0 or any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewer works, in the opinion of the Town Board.
  - (7) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material is received in the composite sewage at the sewage treatment works in excess of the concentrations prescribed herein or other substances that exceed the limits established by the Engineer for such materials. **[Added 4-4-1984]**

<b>Substance</b>	<b>Concentration (mg/l)</b>
Arsenic and compounds of Arsenic expressed as (As)	0.5
Barium (Ba)	2.0
Cadmium (Cd)	3.0
Chromium, hexavalent (Cr <sup>+6</sup> )	1.0
Dissolved Copper (Cu)	1.0

<b>Substance</b>	<b>Concentration (mg/l)</b>
Cyanide, Total	1.0
Cyanide, Free	0.1
Formaldehyde as HCHO vapor	5.0
Lead (Pb)	1.0
Nickel (Ni)	3.0
Selenium (Se)	2.0
Soluble silver as Ag	1.0
Zinc (Zn)	5.0
Soluble manganese and/or iron	5.0

- (8) Any water or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant.
- (9) Any noxious or malodorous gas or substance.
- D. Grease, oil and sand interceptors shall be provided when, in the opinion of the Town Board, they are necessary for the proper handling of wastes containing grease in excessive amounts or any flammable wastes, sand, grit and other harmful ingredients. All interceptors shall be of a type and capacity approved by the Town Board and shall be located so as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which when bolted in place shall be gastight and watertight. Grease and oil interceptors shall be constructed in any place or building having a capacity to serve group meals.
- E. Where installed, all grease, oil, sand and grit interceptors shall be maintained by the owner at his expense in continuously efficient operation at all times.
- F. The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than 300 milligrams per liter by weight or containing more than 350 milligrams per liter by weight of suspended solids or containing any quantity of substances having the characteristics described in Subsection C of this section or having an average daily flow greater than 2% of the average daily sewage flow of the sewer district shall be subject to the review and approval of the Town Board. Where necessary in the opinion of the Town Board, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 milligrams per liter and the suspended solids to 350 milligrams per liter by weight or reduce objectionable characteristics or constituents to within the maximum limits provided for in this section or control the quantities and rates of discharge of such waters or wastes. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for

the approval of the Town Board, and no construction of such facilities shall be commenced until said approval is obtained in writing. **[Amended 10-15-1969]**

- G. Where preliminary treatment facilities are required for any waters or wastes, no permit will be granted until such pretreatment units have been placed in operation and have demonstrated their effectiveness by test. The cost of such testing, sampling and analyzing shall be borne by the waste contributor. Said preliminary treatment facilities shall be maintained continuously and satisfactorily in effective operation by the owner at his expense.
- H. When required by the Town Board, the owner of any property served by a building sewer carrying commercial-industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be conveniently and safely located. It is to be constructed in accordance with plans approved by the Town Board. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- I. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in Subsections C and F shall be determined in accordance with "Standard Methods for the Examination of Water and Waste Water," or with methods approved by New York State Department of Health, and may be determined at the control manhole provided for in Subsection H, or upon suitable samples taken at said manhole. In the event that no special manhole has been required, the control manhole may be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. If, in the judgment of the Superintendent, analyses must be performed which are beyond the scope of the laboratory at the sewage treatment plant, these analyses shall be performed at a laboratory designated by the Superintendent and the cost of these analyses shall be borne by the owner. **[Amended 10-15-1969]**
- J. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town Board and any industrial, commercial or other owner from whose premises an industrial-commercial or domestic waste emanates which is of unusual strength or character from being accepted by the Monroe County Division of Pure Water for treatment subject to payment therefor by such owner.<sup>7</sup>

#### **§ 219-13. Residential manhole covers. <sup>8</sup>**

- A. All manhole covers in the Town of Henrietta are located in the right-of-way (row) and/or filed easements. Therefore, residents shall not be allowed to install landscaping, grass, or berms over any sanitary or storm manhole cover.

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7. Editor's Note: Amendments pending adoption.

8. Editor's Note: Adoption pending.



§ 219-13

## SEWERS

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- B. It shall be the homeowner's responsibility to remove any and all coverings to manholes listed in Subsection A immediately or upon notification by the Town of Henrietta Code Enforcement Department.
- C. If a covered manhole is not cleared after two written notifications by the Town of Henrietta Code Enforcement Department, the Town of Henrietta shall have the right to perform the work necessary to uncover the manhole and bill the homeowner for the costs incurred.

**§ 219-14. Repair and maintenance work.**

- A. Work connected with sewer system. Any repair or maintenance work in connection with sewer pipes and drains connected directly or indirectly to any sanitary or storm sewer system or storm drain in the town shall be performed in accordance with the specifications and under the supervision and inspection of the Town Board or its authorized agents.
- B. Work not connected with sewer system.
  - (1) For work performed on sewers, pipes, laterals or drains which are not a part of a sanitary sewer or storm sewer system at the direction or under the supervision of the Town Board for the particular or special benefit of any individual parcel or portion of real property, a charge is hereby established in an amount equal to the actual cost thereof to the sewer district.
  - (2) The Town Board shall annually assess against the individual parcel of land the amount of any such charges remaining unpaid on October 1, and such charges shall be added to the tax roll and cited in the same manner and at the same time as the other taxes are assessed, levied and collected in the town pursuant to statute.

**§ 219-15. Ownership and maintenance of sewer laterals. <sup>9</sup>**

- A. The property owner shall be responsible for any maintenance or repair of that portion of the sanitary lateral that he/she owns.
- B. Further, the portion that the property owner is responsible for shall be any sewer infrastructure not otherwise located in a Town easement and/or any Town, county or New York State right-of-way, including sewer infrastructure located between any structure on private property and the right-of-way or easement.
- C. The Town shall be responsible for the portion of sanitary lateral located from the sanitary sewer to the edge of the easement and/or right-of-way located on the homeowner's property.
- D. In the event of a blocked sanitary lateral and the absence of an existing cleanout, the property owner shall be required to have a cleanout installed prior to any repair work by

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9. Editor's Note: Adoption pending.

the Town. The cleanout shall be located at the junction of the existing easement or Town right-of-way and the owner's property.

- E. All repairs to any sanitary laterals in the Town of Henrietta must be made with PVC SDR-21.

**§ 219-16. Power and authority of inspectors.**

- A. The Superintendent and other duly authorized employees of the Town Board and representatives of both the United States Environmental Protection Agency and the New York State Department of Environmental Conservation bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing, or proper activities in accordance with the terms of this article or any regulations promulgated thereunder. The powers and authority herein granted shall be in addition to powers of inspection otherwise granted by law to the Town Board. **[Amended 4-4-1984; 6-20-2001 by L.L. No. 3-2001]**
- B. All information in the possession of the owner bearing on the industrial, commercial or other process which, in the judgment of the Superintendent, affects the sewage works or systems shall be made available to the Superintendent or his authorized representative.

**§ 219-17. Enforcement and remedies; penalties for offenses.**

- A. Any permit issued pursuant to this article shall be subject to cancellation after a hearing in the event of a finding by the Town Board at such hearing that the user or permittee of the sewage system has violated any of the provisions of this article. Such hearing shall take place on 10 days' written notice to the permittee or user. Upon any cancellation provided for in this subsection or otherwise in this section, the Town Board may terminate the use of the sewer by severing the connection to the sewage system.
- B. Any person violating any provision of this article shall be responsible in money damages for any injury to the sewer system or expense caused the Board by such violation. This money may be collected by civil action in the Supreme Court of the State of New York or other court having jurisdiction. Obedience to this article may also be enforced by injunction.
- C. Any person violating any provisions of this article and interfering with, entering or using said sewer systems without obtaining permission hereunder shall be guilty of a misdemeanor and subject to a fine of not more than \$1,000 or to imprisonment of not more than one year, or both such fine and imprisonment, and in addition when a violation of this article or any of the provisions thereof is continuous, each 24 hours thereof shall constitute a separate, distinct and additional violation. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- D. In all sewer districts of the Town of Henrietta, the Town Board acting for and in behalf of such sewer district shall be responsible for the enforcement of this article.

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SEWERS

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**§ 219-18. Inconsistent provisions.**

In the event that the provisions of this article are inconsistent with the provisions of any ordinance of the Town of Henrietta heretofore adopted, the provisions of this article shall be applicable and shall supersede such inconsistent prior provision. However, in such event only the prior provisions inconsistent with any provision of this article shall be deemed superseded and all other provisions in any such heretofore adopted ordinance not inconsistent with the provisions of this article shall continue in full force and effect.

**§ 219-19. Delegation of supervisory function.<sup>10</sup>**

The Town Board may delegate to the Director of Engineering and Planning of the Town of Henrietta the supervisory and enforcement duties and functions under this article.

## ARTICLE III

**Commercial Establishment Surcharge**

**[Adopted 10-3-2007 by Res. No. 18-196/2007; amended in its entirety 3-2-2011 by L.L. No. 1-2011]**

**§ 219-20. Sewer usage surcharge.**

A commercial establishment serviced by public water shall pay a sewer usage surcharge to the Town of Henrietta in an amount to be determined by the Henrietta Town Board after a public hearing. The Town Board may determine said surcharges based upon its consideration of factors, including, but not limited to, the type of commercial establishment, the burden such commercial use places upon the sewer system and the means by which said burden may be measured. Said surcharges shall be published in the Henrietta Town Code Fee Schedule.<sup>11</sup>

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10. Editor's Note: Amendments pending adoption.

11. Editor's Note: See Ch. A301, Fee Schedules.



## Chapter 224

### SIGNS

§ 224-1. Purpose and scope.	§ 224-10. Signs or advertising devices on motor vehicles.
§ 224-2. Definitions.	§ 224-11. Public areas.
§ 224-3. Permit required; application; expiration and renewal.	§ 224-12. Street banners.
§ 224-4. Use, height and design of signs.	§ 224-13. Electronic reader board signs.
§ 224-5. Exceptions.	§ 224-14. Maintenance.
§ 224-6. Street addresses.	§ 224-15. Penalties for offenses.
§ 224-7. Nonconforming signs.	Table 1, Maximum Permitted Heights and Areas of Pole Signs
§ 224-8. Location and size of signs.	Table 2, Maximum Size Allowed
§ 224-9. Abandoned signs.	

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 10-20-1976. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Zoning — See Ch. 295.

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#### § 224-1. Purpose and scope.

- A. The purpose of this chapter is to provide standards to safeguard life, health, property and public welfare by controlling the location, construction, installation, illumination and maintenance of all signs and sign structures. It is the further purpose of this chapter on the regulation of signs to control the quality and quantity of signs so as to provide identification of local businesses while giving consideration to the aesthetics of the community.
- B. No sign shall be constructed, set or erected on the exterior of any premises, fastened to, erected upon or painted on the exterior of any building or other structure or placed upon the ground, except as provided herein.
- C. In the interest of traffic safety and community aesthetics, all signs shall contain the least amount of information possible and should be designed in such a way as to be an asset to the community and not a distraction.

**§ 224-2. Definitions.**

- A. Categories of signs. As used in this chapter, the following terms shall have the meanings indicated: **[Added 5-15-1991<sup>1</sup>]**

**BUSINESS SIGN** — A sign which directs attention to a business or profession conducted, including products or services, etc., offered by or related to such business or profession.

**CONSTRUCTION SIGN** — A temporary sign erected on the premises on which the construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors and similar artisans and the owners, financial supporters, sponsors and similar persons or firms having a role or interest with respect to the structure or project. Such sign may exist for a period no greater than one year, unless an extension is granted by the Code Enforcement Officer after confirming that construction is still ongoing.

**DIRECTIONAL SIGN** — A sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property, including signs marking entrances, parking areas, one-way drives, rest rooms, pickup and delivery areas and the like.

**GOVERNMENTAL SIGN** — A sign erected and maintained pursuant to and in discharge of any governmental function or required by any law, ordinance or governmental regulation.

**GRAND OPENING SIGN** — A temporary sign on which the copy announces the opening of a store, restaurant or any other new commercial venture.

**ILLUMINATED SIGN** — Any sign that is illuminated with various forms of light, including, but not limited to, any form of lightbulb, LED, LCD, HDTV or any other form of lighted illumination.

**NON-BUSINESS MESSAGE SIGN** — A noncommercial advertising sign expressing the position, opinion or philosophy of the owner or occupant at the subject property regarding political, religious, social or economic causes or to announce a coming special event or activity.

**OFF-SITE BUSINESS SIGN** — A sign, including billboards, which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

**PRIVATE SALE SIGN** — A temporary sign advertising the sale of personal property at house sales, garage sales, rummage sales and the like.

**REAL ESTATE SIGN** — A temporary sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located, which may exist for as long as the premises is up for sale or lease, excluding, however, "sold by" signs.

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1. Editor's Note: Amendments pending adoption.

**SIGN** — Any structure, painting, drawing, printing or other configuration which is constructed, set or erected upon any premises or is fastened to, erected upon or painted on the exterior of any building or structure which purports to indicate the nature or name of, or to publicize, any service, any organization or any commercial or industrial enterprise.

**TEMPORARY SIGN** — Any sign (movable or stationary) which has not been approved as a permanent sign and which promotes either an event that occurs at a specified time or a state or event that exists only for a temporary period of time. Such signs may be posted for the period of the event and the preceding 30 days, but may never be posted for a continuous period of greater than 60 days, unless otherwise specified herein. A temporary sign must be removed within 48 hours of the end of the subject event or state.

**WARNING SIGN** — Signs limited to messages of warning, danger or caution.

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

**GROUND SIGN** — Any sign, other than a pole sign, placed upon or supported by the ground, independent of any other structure, including a monument sign.<sup>2</sup>

**POLE SIGN or FREESTANDING SIGN** — A sign that is mounted on a freestanding pole or other supports, so that the bottom edge of the sign face is nine feet or more above grade.

**PROJECTING SIGN** — A sign that is wholly or partly dependent upon a building for support and which projects more than 18 inches from such building.

**ROOF SIGN** — A sign that is mounted upon the roof of a building or which is wholly dependent upon a building for support and which projects more than six inches above the highest point of a building with a flat roof, an eave line of a building with a gambrel, gable or hip roof or the deck line of a building with a mansard roof.

**WALL SIGN** — A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 18 inches from such building or structure.

**WINDOW SIGN** — A sign which is applied or attached to the interior of a window or located within three feet of the interior of the window and which can be seen from the exterior of the structure.

- C. Other definitions. As used in this chapter, the following terms shall have the meanings indicated: **[Added 5-15-1991]**

**SHOPPING PLAZA** — Two or more separately owned commercial enterprises which are located in a single building, two or more connected or adjacent buildings or two or more buildings developed as part of a single integrated development.

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2. Editor's Note: Amendments pending adoption.

**§ 224-3. Permit required; application; expiration and renewal.**

- A. No sign shall be hereafter erected, placed or maintained at any place in the Town of Henrietta except as provided by this chapter and only after a permit therefor has been obtained in compliance with the provisions of this chapter, unless stated otherwise.
- B. Application for a sign permit shall be made in writing by the owner, lessee or occupant for whom the sign is intended and shall be accompanied by a scale drawing showing dimensions, proposed design, the legend, colors, materials, structural details and, in the case of ground signs, pole signs or freestanding signs, a location map or plot plan delineating the location of building and parking areas and other signs in the same property or other obstructions in relation to the designated location of the proposed sign. The application shall be made on forms prescribed and provided by the Fire Marshal/Building Inspector. At the time of filing the application, the applicant shall pay the required fee in accordance with the fee schedule then in effect. **[Amended 5-15-1991; 2-15-2006 by L.L. No. 1-2006]**
- C. No sign for which a permit has been granted hereunder shall be moved, altered, changed, enlarged or reconstructed without a new permit being issued therefor in accordance with the provisions hereof.
- D. Whenever application is required to be made or is made to the Zoning Board of Appeals for a permit to erect a sign, said application and the hearing thereof will be made and conducted in accordance with the provisions of Chapter 295, Zoning. Before granting the permit, the Zoning Board of Appeals (in addition to consideration of the standards set forth in Chapter 295, Zoning) shall consider and determine that the proposed sign:
  - (1) Will not be detrimental to other property.
  - (2) Will not create a hazard or a nuisance.
  - (3) Will not interfere with the use of public lands or highways.
  - (4) Is in harmony with the purpose of this chapter contained in § 224-1A above.
- E. Except as otherwise provided herein, a permit required by and issued pursuant to any of the provisions herein shall be valid for a period of five years from the date of such permit. Prior to the expiration of the five-year period, the owner of such sign shall apply to the Fire Marshal/Building Inspector for a renewal of the permit. If the Fire Marshal/Building Inspector, after inspection, finds that the sign is kept in good repair and in accordance with the original permit, he shall issue a renewal of such permit which shall again be valid for a period of five years. If the Fire Marshal/Building Inspector finds that such sign is not in good repair or not in accordance with the original permit or if a modification of such sign is sought, application shall be made for a permit in accordance with the provisions of this chapter as will then be in effect. Application for renewal may be made every five years in accordance with these provisions. A renewal fee must be paid before issuance of the permit. The required fee will be in accordance with the fee schedule then in effect. **[Amended 5-15-1991; 2-15-2006 by L.L. No. 1-2006]**



- F. After the issuance of any permit for a sign under the provisions of this chapter and within 10 business days after the installation of such sign, the applicant shall file with the Department of the Fire Marshal/Building Inspector a photographic print of the sign as completely installed. **[Amended 2-15-2006 by L.L. No. 1-2006]**

**§ 224-4. Use, height and design of signs.**

- A. No advertising sign shall be erected on any property unless a permit therefor shall have been granted by the Zoning Board of Appeals after public hearing thereon.
- B. No sign shall hereafter be constructed in any district the top of which shall be higher than allowed by Table 1.<sup>3</sup>
- C. No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering, revolving, flashing or animated devices, nor shall any of the aforesaid devices or strings of lights be used for the purposes of advertising, illumination or attracting attention.
- D. The illumination of any sign which is not prohibited by these provisions shall be arranged so as to protect roads and highways, adjoining or on nearby property, from direct glare, nuisance or hazardous interference of any kind. All illuminated signs shall bear the Underwriters' label.
- E. All A-frame, sandwich board and/or push-in signs are prohibited within the Town of Henrietta.<sup>4</sup>

**§ 224-5. Exceptions.**

- A. The provisions of the chapter shall not apply to safety signs, road signs, historical markers or highway directional signs erected by municipal or public agencies.
- B. Traffic directional signs not exceeding three square feet in size shall be permitted on private property without a permit, provided that such signs shall conform to the provisions of these regulations relating to illumination and shall not cause interference with traffic on public highways.

**§ 224-6. Street addresses. [Amended 5-15-1991]**

All buildings shall have an address number which is easily identified from the street. See Chapter 52, Buildings, Numbering of, of this Code.

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3. Editor's Note: Table 1 is included as an attachment to this chapter.

4. Editor's Note: Adoption pending.

**§ 224-7. Nonconforming signs.**

All nonconforming signs existing at the time of the adoption of these regulations shall be discontinued, and the signs and their structural components shall be removed within the times from the effective date hereof as hereinafter set forth:

- A. If such sign was in violation of the sign regulations then in effect, within 90 days.
- B. If such sign was in conformity with the sign regulations then in effect, within three years; provided, however, that if the nonconformity consists merely of the sign being in excess of the size permitted by these regulations and if the Fire Marshal/Building Inspector, upon inspection, finds that the sign is otherwise in good repair, the Town Board may, upon application by the sign owner, waive the removal of such sign. In considering the application for such waiver, the Town Board shall take into consideration the size of the sign, its age, its location and nearness of a major highway and its potential hazard to traffic. **[Amended 11-7-1979; 5-15-1991; 2-15-2006 by L.L. No. 1-2006]**

**§ 224-8. Location and size of signs.**

- A. Residential districts. Signs are permitted in residential districts as follow:
  - (1) For single-family or two-family dwellings, one sign not exceeding two square feet in area, or two square feet per side if a double-faced sign, and indicating only the name and address of the occupant and a permitted accessory use. Such sign may be attached to a principal building or may be a ground sign, but in either case shall not project more than four feet in height above grade, shall not be nearer than 10 feet to any lot line and shall not be illuminated except indirectly. A permit is not required.
  - (2) For multiple dwellings, one sign for each building not exceeding two square feet in area and indicating only the street address. Such sign shall not project more than six feet in height above grade and shall not be illuminated except indirectly. No permit is required.
  - (3) For multiple dwellings, projects and/or other residential developments, one sign, building sign or ground sign, 32 square feet in area or per side if a double-faced sign, indicating only the name of the project or development, shall be permitted for each development. Such sign shall not be closer than 10 feet to any lot line, shall not project more than six feet in height above grade and shall not be illuminated except indirectly. A permit is required. **[Amended 5-15-1991]**
  - (4) For a church or other permitted institution, club or permitted principal use other than dwellings, one sign not exceeding 32 square feet in area or per side if a double-faced sign. Such sign shall not be nearer to any lot line than 1/2 the required building front setback or 20 feet, whichever is greater, shall not project more than six feet in height above grade and shall not be illuminated except indirectly. A permit is required, but fees will be waived. **[Amended 5-15-1991]**
  - (5) One nonilluminated real estate sign, not exceeding three square feet in area or per side if a double-faced sign, advertising only the prospective sale of a single

residence. Such sign must be located on the premises to be sold, shall not be closer than 10 feet to any lot line, shall not project more than four feet in height above grade and shall be removed within 24 hours after the time of the sale or rental. No permit is required.<sup>5</sup>

- (6) Temporary real estate signs in connection with the sale, rental or improvement of real property, except single residences; provided, however, that such signs shall be located on the premises to be sold, rented or improved. Said signs shall not exceed one sign of 32 square feet in area or per side, if a double-faced sign, or two signs of 16 square feet each in area or per side, if a double-faced sign, for each development. For the purpose thereof, a residential subdivision shall be considered a single development. Such signs shall be nonilluminated and shall be erected or installed only after a permit for the same shall have been obtained. Said permit shall be valid for a period of 12 months and may be renewed. **[Amended 5-15-1991<sup>6</sup>]**
- (7) Any signs erected, placed or constructed in connection with a commercial or industrial use, including the sale of farm products, conducted in a residential district shall be by special permit only.
- (8) Private sale signs may be displayed for a duration of three days or less. No permit is required.
- (9) Governmental signs are allowed without permit.
- (10) Warning signs over 16 square feet in area shall require a permit. **[Amended 5-15-1991]**
- (11) Non-business message signs and temporary non-business message signs. **[Added 5-15-1991<sup>7</sup>]**
  - (a) Non-business message signs and temporary non-business message signs not otherwise addressed in this Subsection A shall be nonilluminated signs which shall not exceed six square feet in area, shall not be closer than 20 feet to any lot line and shall not project more than six feet in height above grade.
  - (b) Non-business message signs and non-business temporary message signs, including political signs, shall be permitted, subject to the following requirements:
    - [1] They shall not, in the aggregate, number more than three per tax account number lot.
    - [2] The owner or occupant of the property on which such signs are to be posted shall consent to the erection of such signs and shall be responsible for their removal.

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5. Editor's Note: Amendments pending adoption.

6. Editor's Note: Amendments pending adoption.

7. Editor's Note: Amendments pending adoption.

- [3] Such signs shall not require a permit, but signs erected on vacant land shall be registered with the Town by the owner of the property in person or by mail. Said registration is solely to assure the property owner's knowledge of the existence of said sign(s).
- [4] Such signs shall not be affixed to fences, trees, utility poles, bridges or traffic signs and shall in no way obstruct or impair vision or traffic in any manner or create a hazard or disturbance to the health and welfare of the general public.
- [5] Such signs shall not be located within rights-of-way of public streets.
- [6] Political signs advertising candidates for an upcoming election are temporary message signs, where the "event" advertised involves an election. In the case that the sign is related to a primary race, said sign may be displayed between the end of the primary and the end of the general election (i.e., the primary and the general election shall be considered one event). As set forth above, temporary signs must be removed within 48 hours of the end of the subject event or state.

B. Commercial and industrial districts.

- (1) Upon obtaining a permit, each separate commercial or industrial enterprise shall be permitted to erect (a) a simple wall sign attached to the front of the building, or a roof sign, and (b) one of either a pole sign or a ground sign, subject to the following regulations: **[Amended 5-15-1991<sup>8</sup>]**
  - (a) The total square footage for all signs on the property shall not exceed four square feet per linear foot of building frontage. "Building frontage" is defined as the widest part of the building facing the road. See Tables 1 and 2 for square footage maximum for all signs.<sup>9</sup>
  - (b) A roof sign shall not exceed three feet in height or, in width, 3/4 of the width of said building; provided, however, that the top of said sign shall not be higher than 35 feet above grade and the bottom of the sign shall not be higher than three feet above the roof. All structural frames must be screened from view.
  - (c) A pole sign shall have a minimum setback of 20 feet.
  - (d) A second wall or roof sign is allowed in lieu of a pole or ground sign.
- (2) Shopping plaza signs. In shopping plazas, each individual store or other enterprise shall be permitted to have one wall or roof sign of the type permitted under Subsection B(1). The design and style of such individual signs shall be coordinated so as to create aesthetic uniformity within the plaza. In addition, the shopping plaza may erect a single pole sign advertising the name of the shopping plaza. A

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8. Editor's Note: Amendments pending adoption.

9. Editor's Note: Tables 1 and 2 are included at the end of this chapter.

plaza pole sign used as a directory which lists the tenants of the plaza is an appropriate use. These permitted plaza pole signs do not count as part of the signage permitted by Subsection B(1) above. Such signs shall be erected only after a special permit therefor shall have been obtained from the Zoning Board of Appeals. (For size, see Table 2.) With the approval of the plaza property owner, in lieu of a pole sign advertising the plaza, an individual tenant may erect a pole sign. Only one pole sign in total will be permitted for the shopping plaza. **[Amended 5-15-1991<sup>10</sup>]**

- (3) Accessory signs. Each of the foregoing businesses or enterprises may have the following accessory signs:
  - (a) Two signs, each not exceeding six square feet in area, indicating or calling attention to traffic entrances and exits, provided that, if illuminated, such illumination shall cease at the close of business hours or 2:00 a.m., whichever is earlier. Such signs shall not carry any advertisement, shall not be nearer than six feet to any lot line and shall not project more than four feet in height above grade. All such signs shall be approved by the Fire Marshal/Building Inspector and require a permit. **[Amended 5-15-1991; 2-15-2006 by L.L. No. 1-2006]**
  - (b) One sign, not exceeding two square feet in area, indicating only the street number of the property. Such sign shall not project more than four feet in height above grade and shall not be nearer than 10 feet to any lot line. No permit is required.
- (4) Temporary signs used in connection with the sale, rental or improvement of real property shall be located on the premises to be so sold, rented or improved. Such signs shall not exceed two signs of 64 square feet maximum size each, shall not be closer than 20 feet to any lot line and shall be removed within 24 hours after the time of the sale or rental. No such sign shall be erected unless a permit has first been obtained therefor. Such permit shall be valid for a period of 12 months and may thereafter be renewed. **[Amended 5-15-1991]**
- (5) One nonilluminated sign, not to exceed 32 square feet in area, denoting the architect, engineer or contractor may be placed on the premises where construction, repair or renovation is in progress. Such sign shall not project more than eight feet in height above grade and shall not be nearer than 20 feet to any lot line. Such sign shall be subject to approval of the Fire Marshal/Building Inspector and shall require a permit, which permit shall be valid for a period of not more than 12 months and may thereafter be removed. **[Amended 5-15-1991; 2-15-2006 by L.L. No. 1-2006]**
- (6) Illuminated signs.<sup>11</sup>

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10. Editor's Note: Amendments pending adoption.

11. Editor's Note: Adoption pending.

- (a) Illuminated signs are only allowed in nonresidential zoning districts.
  - (b) Illuminated signs must comply with the Town of Henrietta Code regulations regarding nonilluminated signs, including but not limited to size, height and location.
  - (c) Illuminated signs shall have no flashing, scrolling or other animation in the message.
  - (d) Illuminated signs may not change message content more than once per hour.
  - (e) Building-mounted illuminated signs may not change their messages at any time.
- (7) Temporary business signs advertising or calling attention to coming events, special sales, contests, civic activities, promotional activities and devices, posters, banners, decals, etc., calling attention to association with credit groups, compliance with standards, affiliation with a premium stamp promotion, etc., may be exhibited only if inside any window area of a building, provided that the aggregate area of such signs, posters, banners, etc., does not exceed 40% of the area of the window in which they are exhibited. Neither Board approval nor the obtaining of a building permit is required.<sup>12</sup>
- (8) A temporary non-business sign or a message sign is permitted under the same conditions as detailed in Subsection A(11)(b)[1] through [6]. **[Added 5-15-1991<sup>13</sup>]**
- (9) Temporary grand opening signs advertising or calling attention to coming special store opening activities, special sales or other activities shall require a permit. Size and location of such a sign shall be individually evaluated by the Fire Marshal/Building Inspector before a permit is issued. **[Added 5-15-1991; amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**

#### **§ 224-9. Abandoned signs.**

Signs or any structure or portion thereof which advertises an activity, business, product or service no longer conducted or available on the premises on which the sign is located shall be prohibited and shall be removed within 30 days.

#### **§ 224-10. Signs or advertising devices on motor vehicles.**

- A. No person shall park any vehicle on a public right-of-way or public property or on private property so as to be intended to be viewed from a motorized vehicular public right-of-way, which has attached thereto or located thereon any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business or activity located on the same or nearby property or any other premises.

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12. Editor's Note: Amendments pending adoption.

13. Editor's Note: Amendments pending adoption.

- B. This section is not intended to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a motor vehicle or signs that are part of a vehicle, such as a construction trailer, which vehicle's primary purpose is not advertising to the public right-of-way.

**§ 224-11. Public areas.**

The placing of any sign other than a "for sale" sign for residential property on any curb, sidewalk, post, pole, hydrant, bridge or tree is prohibited.

**§ 224-12. Street banners.**

Street banners shall not be permitted unless specifically approved for civic affairs by the Zoning Board of Appeals.

**§ 224-13. Electronic reader board signs.<sup>14</sup>**

An electronic reader board sign is an illuminated sign with a changeable message. Electronic reader board signs are permitted in the Town of Henrietta subject to the following restrictions:

- A. They are only permitted in commercial/retail districts. They are not permitted in residential districts.
- B. They shall be erected perpendicular to the street. They shall not be mounted on any building.
- C. They shall only be permitted on pole or monument signs.
- D. They shall have no flashing, scrolling or other animation in displayed messages.
- E. They are limited in content changes to one change every hour.
- F. They may be in operation only from one hour before opening to one hour after closing of the commercial/retail business to which the sign relates.
- G. They may be permitted for plaza directory sign purposes.

**§ 224-14. Maintenance. [Amended 5-15-1991; 2-15-2006 by L.L. No. 1-2006]**

The Fire Marshal/Building Inspector shall require the proper maintenance of all signs, and such signs, together with their supports, shall be kept in good repair and free from all hazards, such as but not limited to faulty wiring and loose fastenings. The display surfaces and structures shall be kept neatly maintained at all times. The Fire Marshal/Building Inspector may order the removal of any sign that is not maintained in accordance with the provisions of this chapter.

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**14. Editor's Note: Adoption pending.**

**§ 224-15. Penalties for offenses.**

- A. The owner or general agent of a building or premises or land where violation of any provision of this chapter has been committed or shall exist; or the lessee or tenant of any entire building or entire premises or land where such violation has been committed or shall exist; or the owner/general agent, lessee or tenant of any part of the building or premises or land in which such violation has been committed or shall exist; or the general agent, lessee or tenant of any part of the building or premises or land in which such violation has been committed or shall exist; or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any property or part thereof in which any violation shall exist shall be guilty of an offense punishable, upon conviction thereof, by a minimum fine of \$100 up to a maximum fine of \$250 or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment. Each day's continued violation after notice of violation from the Town shall constitute a separate and additional violation. **[Amended 4-6-1988; 6-20-2001 by L.L. No. 3-2001]**
- B. The Fire Marshal/Building Inspector or his assistants are hereby authorized to remove or cause to be removed any sign which does not conform to the provisions of this chapter, and all costs and expenses incurred in such removal shall be assessed against the land or buildings upon which the sign is located. **[Amended 8-20-1986; 2-15-2006 by L.L. No. 1-2006]**



## SIGNS

## 224 Attachment 1

**Table 1**  
**Maximum Permitted Heights and Areas of Pole Signs**

**(Detached Signs)**

<b>Public Right-of-Way Width</b>	<b>Traffic Speed Allowed (mph)</b>	<b>Area Each Face* (square feet)</b>	<b>Maximum Height From Grade (feet)</b>
Two-lane road	15-20	32	20
	25-30	50	20
	35-45	75	20
	50-	100	25
Four-lane road	15-20	32	20
	25-30	75	25
	35-45	100	30
	50-	150	35
Freeway-oriented ground signs* (subject to permit to be obtained from New York State Department of Transportation)		200	50 from grade or 25 above the freeway roadbed, whichever is higher

## NOTES:

\*If more than one face, the total permitted area may not exceed twice the area permitted for one face.



SIGNS

224 Attachment 2

**Table 2**  
**Maximum Size Allowed**  
**(square feet)**

Use	Type of Sign					
	Building		Roof	Projecting	Ground	Pole
One parcel	250	or	250	32	See Table 1	or See Table 1
Plaza	250	or	250	32	See Table 1	or See Table 1
Industrial	250	or	250	32	See Table 1	or See Table 1
Industrial park	250	or	250	32	See Table 1	or No



## **Chapter 227**

### **SMOKING**

#### **§ 227-1. Restrictions.**

#### **§ 227-3. Penalties for offenses.**

#### **§ 227-2. Employee concerns or complaints.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 6-20-2001 by L.L. No. 3-2001; amended in its entirety at time of adoption of Code. Subsequent amendments noted where applicable.]**

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#### **§ 227-1. Restrictions.**

The Town of Henrietta hereby adopts restrictions on smoking in Town facilities in accordance with state regulations on smoking in public areas found in Public Health Law Article 13-E, § 1399-n et seq., as amended.

#### **§ 227-2. Employee concerns or complaints.**

Employees are encouraged to present any concerns to their supervisor and may register a complaint with the county enforcement officer.

#### **§ 227-3. Penalties for offenses.**

Employees found smoking outside of designated smoking areas will be considered in violation of this policy and may be subject to the penalty prescribed by the State Commissioner of Health.



## **Chapter 230**

### **SNOWMOBILES**

**§ 230-1. Purpose.**

**§ 230-2. Authority.**

**§ 230-3. Title.**

**§ 230-4. Definitions.**

**§ 230-5. Operation on government or  
privately owned land.**

**§ 230-6. Designated highways.**

**§ 230-7. Highway operation rules.**

**§ 230-8. Incorporation of other laws.**

**§ 230-9. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 1-18-1978.  
Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Noise — See Ch. 168.

Vehicles and traffic — See Ch. 273.

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**§ 230-1. Purpose.**

The purpose of this chapter is to protect the public health, welfare and safety by regulating the operation of snowmobiles within the Town of Henrietta in a manner which will promote their safe and proper use for recreation and commerce, minimize detrimental effects of such use on the environment and permit use of certain highways in the Town compatible with the use for other vehicular and pedestrian travel.

**§ 230-2. Authority.**

This chapter is enacted pursuant to the provisions of § 25.09 of the Parks, Recreation and Historic Preservation Law of the State of New York, as enacted by Chapter 660 of the Laws of 1972 and thereafter amended.

**§ 230-3. Title.**

This chapter shall hereafter be known as the "Town of Henrietta Snowmobile Law."

**§ 230-4. Definitions.**

The words, phrases and terms used in this chapter shall have the meanings of those contained in the Parks, Recreation and Historic Preservation Law or in the rules and regulations of the Office of Parks, Recreation and Historic Preservation supplemental thereto. Wherever the word "Town" is used herein, reference shall be to the Town of Henrietta, unless otherwise noted.

**§ 230-5. Operation on government or privately owned land. <sup>1</sup>**

No snowmobile shall be operated on any lands owned or occupied by a governmental agency or privately owned except with the permission of any such owner, or as otherwise permitted by this chapter.

**§ 230-6. Designated highways.**

The following streets, roads and highways in the Town of Henrietta, or portions thereof, as hereinafter set forth, are hereby designated as highways for the operation of snowmobiles for the purpose of this chapter as well as for the purpose of § 25.05 of the New York State Parks, Recreation and Historic Preservation Law:

<b>Name of Highway</b>	<b>Limits</b>
Middle Road	From Lehigh Station Road south to the Rush town line
Martin Road	From Middle Road to Telephone Road
Telephone Road	From West Henrietta Road to the Rush town line
Ward Hill Road	From East Henrietta Road to Pinnacle Road
Pinnacle Road	From the New York State Thruway bridge to the Rush town line
Williams Road	From Pinnacle Road to Wardell Road
Wardell Road	From Williams Road to the Rush town line
Reeves Road	From Pinnacle Road to Tobin Road
Tobin Road	From Reeves Road to the Pittsford town line

**§ 230-7. Highway operation rules.**

Snowmobiles may be operated on the following portions of the highways in the Town of Henrietta designated by § 230-6 hereof, and only in accordance with the rules hereinafter set forth:

- A. Shoulders and inside banks. On the shoulders and inside banks of such highways where identified by appropriate road markers.
- B. Roadways. On roadways of such highways or portions thereof in case the outside banks or shoulders are determined by the Town to be impassable or nonexistent by reason of prevailing snow conditions or conditions of terrain.
- C. Access areas. On such designated highways, for a distance not to exceed 500 yards, when, in the determination of the Town, it is otherwise impossible for snowmobiles to gain access to areas or trails adjacent to the highway, for the purpose only of gaining access to and from the areas of operation.
- D. Limitation on highway operation.

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1. Editor's Note: Adoption of amendments pending.



- (1) It shall be unlawful to operate a snowmobile on any designated Town highway or on any portion thereof at a rate of speed greater than reasonable or proper under the surrounding circumstances, but at no time at a rate of speed in excess of 20 miles per hour.
- (2) Operators of snowmobiles on designated Town highways must be at least 18 years of age, or as stated in Parks, Recreation and Historic Preservation Law § 25.19.<sup>2</sup>
- (3) It shall be unlawful to operate snowmobiles on any designated Town highways or on any portion thereof between the hours of 12:00 midnight and 8:00 a.m.
- (4) It shall be unlawful to operate a snowmobile, except at special events sanctioned and approved by the Office of Parks, Recreation and Historic Preservation, in any manner which makes loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons or in any other manner which constitutes a public nuisance or annoys or endangers the health, safety, comfort or repose of the public. No person shall use a muffler cutout, bypass or any other device to defeat the operation of the muffler in good working condition.
- (5) It shall be unlawful for any persons to operate a snowmobile on any road or highway within the Town unless such person is insured against public liability and carries with him proof of financial responsibility, such as a certificate of liability insurance of the type coverage and of the minimum amount as defined and required by § 25.13 of the Parks, Recreation and Historic Preservation Law of the State of New York. Such proof shall be displayed by the owner or operator of any snowmobile upon request to any law enforcement officer or to any person who has suffered or claims to have suffered personal injury or damage to property as a result of the operation of such snowmobile by any such owner or operator.
- (6) Each person operating a snowmobile on any road or highway within the Town shall strictly observe any vehicular traffic signals and all other rules and regulations applicable to vehicular traffic and shall obey the orders and directions of any state or local police or other law enforcement officer authorized to direct or regulate traffic. All snowmobiles operated on Town highways shall travel in single file, shall not travel tandem or abreast of each other, except in overtaking another snowmobile, and shall travel on the right side of the road in the same direction as the flow of vehicular traffic.

#### **§ 230-8. Incorporation of other laws.**

All other pertinent provisions of the New York State law, including but not limited to the Parks, Recreation and Historic Preservation Law as amended, are incorporated herein except as to those modifications set forth in this chapter. In case of inconsistency between the provisions of state law and this chapter, the stricter or more limiting provisions shall govern.

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2. Editor's Note: Adoption of amendments pending.

**§ 230-9. Penalties for offenses.** <sup>3</sup>

In addition to any penalty contained in any other provision of law, any person who shall violate any provisions of this chapter shall be guilty of a violation and shall be punished by a fine of not less than \$50 nor more than \$250, 15 days' imprisonment, or both.

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3. Editor's Note: Adoption of amendments pending.

## **Chapter 234**

### **SOLID WASTE**

#### **Part 1** **Storage and Collection**

##### **ARTICLE I** **Title; Policy; Definitions**

- § 234-1. Title.
- § 234-2. Declaration of policy.
- § 234-3. Definitions.

##### **ARTICLE II** **Storage of Refuse**

- § 234-4. Receptacles required; placement for collection.
- § 234-5. Accumulation prohibited.
- § 234-6. Deposit on public or private property.

##### **ARTICLE III** **Licensing of Collectors**

- § 234-7. License required for collecting.
- § 234-8. Application for license.
- § 234-9. Term of license; fee; issuance.
- § 234-10. Bond.
- § 234-11. Conditions for licensing.

##### **ARTICLE IV** **Enforcement**

- § 234-12. Enforcement; penalties for offenses.

#### **Part 2** **Solid Waste Management**

##### **ARTICLE V** **Recycling**

- § 234-13. Title.
- § 234-14. Findings.
- § 234-15. Purpose.
- § 234-16. Definitions.
- § 234-17. Waste delivery and disposal; source separation.
- § 234-18. Collection of recyclables placed at curbside.
- § 234-19. Authorized haulers; license to collect.
- § 234-20. Approval, denial, suspension or revocation of license.
- § 234-21. Enforcement; penalties for offenses.
- § 234-22. When effective.

#### **Part 3** **Construction Debris**

##### **ARTICLE VI** **Temporary Dumpsters and Containers**

- § 234-23. Disposal of construction debris.
- § 234-24. Accumulation of waste prohibited.
- § 234-25. Removal of waste.
- § 234-26. Responsibility for compliance.

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

#### GENERAL REFERENCES

Property maintenance — See Ch. 205.

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### **Part 1 Storage and Collection [Adopted 1-2-1974]**

#### **ARTICLE I Title; Policy; Definitions**

##### **§ 234-1. Title.**

This Part 1 shall be known as the "Refuse Collection Law of the Town of Henrietta."

##### **§ 234-2. Declaration of policy.**

By the adoption of this Part 1, the Town Board of the Town of Henrietta, for the promotion of the health, safety and general welfare of the Town of Henrietta and its inhabitants, declares its intent to regulate the collection and disposal of refuse and bulk refuse within the Town of Henrietta.

##### **§ 234-3. Definitions.**

As used in this Part 1, the following terms shall have the meanings indicated:

**BRUSH** — Includes sticks and small branches which do not exceed four feet in length and are tied in bundles. **[Amended 4-3-1985]**

**BULK REFUSE** — Includes household appliances, furniture, dirt and sod in reasonable quantities. **[Amended 4-3-1985; 6-20-2001 by L.L. No. 3-2001]**

**GARBAGE** — All putrescible animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food in any private dwelling house, multiple dwelling, hotel, residence, building or institution.

**HOLIDAY** — Includes Christmas Day, New Year's Day, Thanksgiving Day, Memorial Day, Independence Day and Labor Day.

**HOUSEHOLD APPLIANCES** — Stoves, dishwashers, dryers, washing machines, water heaters and other appliances and scrap metal; refrigerators, air conditioners, microwave ovens and televisions may incur an additional charge as approved by the Town Board. **[Added 6-20-2001 by L.L. No. 3-2001]**

**OWNER** — Includes any tenant in occupancy as well as owner in title.

§ 234-3

SOLID WASTE

§ 234-4

PERSON — Any individual, firm, partnership, company, corporation, association, society, group or other legal entity.

REFUSE — Includes all cardboard, plastic, metal or glass food containers, wastepaper, rags, sweepings, small pieces of wood, excelsior, rubber, leather and similar waste materials, except bulk refuse, that normally accumulate around a private dwelling house, multiple dwelling, business or industry. Also refer to "garbage." **[Amended 6-20-2001 by L.L. No. 3-2001]**

REFUSE COLLECTOR — Includes any person, firm, corporation or legal entity licensed to carry on the business of receiving, collecting, transporting or disposing of garbage, refuse and bulk refuse or waste for hire within the Town of Henrietta. **[Amended 4-3-1985]<sup>1</sup>**

YARD TRIMMINGS — Includes grass and hedge clippings and materials which result from the normal care of residential lawns and shrubs.

## ARTICLE II Storage of Refuse

### § 234-4. Receptacles required; placement for collection. **[Amended 3-4-1992]**

- A. The owner or occupant of a residential establishment within the Town of Henrietta, or place of business within the Town of Henrietta, shall provide or cause to be provided at all times sufficient receptacles for receiving and containing refuse that may accumulate or be used on said premises. Such receptacle shall be a container of sufficient capacity of not less than 18 gallons nor more than 100 gallons, and said container shall have handles and a tight-fitting cover and shall be watertight. All such receptacles shall be securely closed at all times, with the exception of containers for yard clippings which may be containers of a minimum of eight gallons and need not be watertight. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- B. Industrial, apartment and commercial establishments shall provide for an enclosure, the location and size of which shall be approved by the Department of the Fire Marshal/Building Inspector of the Town of Henrietta. Such enclosure shall be constructed in such a way as to protect from wind and unsightly view all dumpsters, containers or refuse enclosed therein. No freestanding dumpster shall be allowed unless a permit for the same shall first be obtained from the Department of the Fire Marshal/Building Inspector of the Town of Henrietta. Said permit shall regulate the number, location and size of said dumpster and may impose reasonable conditions for said use. No dumpster shall be located in a fire lane, roadway or any other location such that it may impede emergency or nonemergency ingress and egress in and about the site. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- C. Placement of containers for collection. **[Added 6-20-2001 by L.L. No. 3-2001]**
  - (1) Receptacles containing garbage shall be placed at the curblin in front of the premises where such garbage originated after 4:00 p.m. on the day preceding the

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1. Editor's Note: The definition of "rubbish," which immediately followed this definition, was repealed 6-20-2001 by L.L. No. 3-2001.

normal garbage collection day, as specified by the Commissioner of Public Works. If such location is inconvenient or inaccessible for collectors, the Commissioner of Public Works may require the responsible owner or occupant to place such containers at some convenient and accessible location.

- (2) After collection, all empty garbage containers must be removed from the curb as soon as possible, but not later than 12:00 midnight of the same collection day, and placed in a garbage port or at the rear of the building so that such containers shall be reasonably out of view from the street.
- (3) The Town Board may authorize the removal of garbage and ashes from the receptacle storage areas, provided that such storage areas are readily accessible to the collection vehicle and collection in this manner will, in its opinion, result in a more expeditious removal of the garbage and ash accumulation from such receptacles.

**§ 234-5. Accumulation prohibited.**

- A. The owner shall be responsible for the regular collection and/or disposal of all refuse or bulk refuse, yard trimmings and brush which may accumulate on property owned by him.
- B. No person shall accumulate or permit the accumulation of refuse on any premises owned or occupied by him within the Town of Henrietta, except for the purpose of collection which shall normally occur at intervals not less frequent than once every seven days, except for vacations, Sundays, holidays or extraordinary weather.
- C. No person shall accumulate or permit the accumulation of bulk refuse, yard trimmings and brush upon any premises owned or occupied by him within the Town of Henrietta for more than seven days, except where caused by or arising out of the construction or remodeling of a dwelling or other building on the premises or incidental to the landscaping of said premises or customary agricultural operations thereon, in which cases due care shall be taken that such accumulation shall not create an unsightly appearance or unreasonably disturb the comfort and repose of the neighborhood and shall be removed within a reasonable time or immediately upon completion of the work causing such accumulation.

**§ 234-6. Deposit on public or private property. [Amended 6-20-2001 by L.L. No. 3-2001]**

No person shall throw or deposit or cause to be thrown or deposited any garbage, refuse, bulk refuse, yard trimmings or brush in or upon any portion of a public highway, street or place or on any property not owned or occupied by him within the Town of Henrietta.

ARTICLE III  
**Licensing of Collectors**

**§ 234-7. License required for collecting.**

No person shall engage in the business of receiving, collecting or transporting refuse, bulk refuse, yard trimmings or brush within the Town of Henrietta without first obtaining a license to carry on such business from the Town of Henrietta and paying the fee for such license as herein provided. Nothing herein contained, however, shall be construed to prevent any person from transporting for the purpose of disposal such refuse, bulk refuse, yard trimmings or brush as is normally generated by such person on his own premises or in his own business.

**§ 234-8. Application for license.**

Applications shall be upon forms provided by the Town Board. Each applicant shall state in such application his name, address, legal character (whether corporation, partnership or individual), name and address of all stockholders, directors or partners, whether he or any stockholders, officers, directors or partners have ever been convicted of any crime and such other information as the Town Board may require.

**§ 234-9. Term of license; fee; issuance. [Amended 4-3-1985]**

- A. Licenses issued pursuant to this law shall be for a period of one year or less, subject, however, to the revocation thereof as provided herein. An annual fee set by the Town Board shall be charged.
- B. The Town Clerk is hereby authorized to issue temporary permits to any licensed collector to use such additional trucks as are necessary for a period not to exceed 30 days for a fee as determined by the Town Board.

**§ 234-10. Bond. <sup>2</sup>**

A bond in the sum of \$25,000 shall be executed by every person or corporation engaged in the refuse collection business within the Town of Henrietta and shall be filed with the Town Clerk before such license shall be issued. Such bond shall be conditioned that said licensee shall comply with the laws, codes, ordinances and regulations of the State of New York, County of Monroe, Town of Henrietta and all lawfully issued orders of the Town Board and that the Town of Henrietta will be indemnified and held harmless from any and all claims for damages or liabilities caused by or arising out of any act or omission of the licensee, his agents or employees or by his failure to comply with applicable statutes, ordinances, rules, regulations or orders. Said bond shall be in such form and contain such sureties as shall be approved by the Town Board or its designated representatives.

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2. Editor's Note: Adoption of amendments pending.

**§ 234-11. Conditions for licensing.**

- A. Every license issued by the Town Clerk pursuant to this law shall be subject to the following conditions:
- (1) Vehicles used by licensed waste collectors in the collection and transportation of refuse in the Town of Henrietta shall have watertight, enclosed, compaction-type bodies. **[Amended 6-20-2001 by L.L. No. 3-2001]**
  - (2) Licensees shall be allowed to use open service trucks for emergency use and also for the purpose of collecting bulk refuse.
  - (3) The vehicles used by collectors shall be subject to inspection by the duly authorized and designated representative of the Town Board of the Town of Henrietta, to ensure that there is compliance with the law as to the type of vehicle and the existence of a license on the vehicle.
  - (4) All trucks must have a minimum liability insurance policy for personal injuries in the amount of \$500,000 per person and \$1,000,000 per accident and \$100,000 coverage for property damage. A certificate of insurance must be furnished by each collector indicating these limits, including contractual liability, and the Town of Henrietta is to be named on this policy as an additional insured. **[Amended 4-3-1985; 3-4-1992]**
  - (5) The collector shall collect all brush, bulk refuse, garbage, refuse and yard trimmings placed in containers once each week for residential properties. Commercial apartments and industrial pickup shall be as frequent as requested by the customer per agreement between customer and collector or at least once each week. **[Amended 4-3-1985]**
  - (6) No collection work shall be made on Sundays or holidays, with the exception of commercial establishments, and no work shall commence earlier than 6:00 a.m., and all collection work shall stop at 6:00 p.m.
  - (7) All garbage, ashes and refuse shall be removed from the location without spilling on the garage floor, driveway or where receptacles are kept per agreement between the resident and collector. The collector shall in all cases replace the containers and covers in the location where found and relatch all doors or gates it may be necessary to open for the purpose of making collections.<sup>3</sup> **[Amended 6-20-2001 by L.L. No. 3-2001]**
  - (8) Residue from construction and demolition as well as trees/branches cut down by professional tree surgeons shall be removed by these individuals or the homeowner and are not the responsibility of the refuse collectors. **[Amended 4-3-1985]**
  - (9) All trucks shall be securely covered while going to and from points of collection, and the scattering of garbage, ashes and refuse in the street shall be prohibited. **[Amended 3-4-1992]**

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3. Editor's Note: Original § 11A(8), which immediately followed this subsection and dealt with the placement of containers for collection, was repealed 6-20-2001 by L.L. No. 3-2001. See now § 234-4C.



- (10) The collector must provide forthwith and at all times during the year a telephone and be prepared to receive and answer messages from 8:00 a.m. to 5:00 p.m. every business day of the year.
- (11) No individual, whether owner, officer or director of a corporation or partner, will be eligible for a license if the applicant shall have been convicted of a misdemeanor or felony which, in the judgment of the Town Board, renders the applicant unfit or undesirable to carry on with the duties involved with a collector. The Town Board may also refuse a license to any person who, in its judgment, shall be an undesirable person or incapable of properly conducting the operations of a collector.
- (12) All residential collectors shall submit to the Town Board their route boundaries and a list of fees charged. All fees shall be subject to the approval of the Town Board. There shall be no increase in price or additional charge to any individual without the consent of the Town Board, with the exception of household appliances that contain Freon, for which a fee, as approved by the Town Board, for removal of said Freon may be charged. In addition, this does not apply to those items collectors are not obligated to pick up by this Part 1. **[Amended 4-3-1985; 6-20-2001 by L.L. No. 3-2001]**
- (13) No owner, collector or employee shall be under the influence of liquor or use insolent or improper language during pickup or when receiving complaints over the telephone.
- (14) The collector shall issue to his customers on an annual basis, at his own expense, written information giving his name, address and telephone number, stating the day upon which collection will be made. Said written information shall contain a summary of services to be rendered by the collector and conditions for pickup, as well as any discounts that may apply to any group. **[Amended 4-3-1985]**
- (15) Any changes in ownership in individual officers, stockholders or directors of a corporation, where the license is not affected, must be reported to the Town Board within five days. Said changes must be approved by the Town Board, but such approval shall not be unreasonably withheld.
- (16) No collector shall refuse to render service when asked by an individual, and the collector shall continue his service during any dispute with any individual, but the collector shall have the right to appeal to the Town Board relative to continuing the service of any individual. If in doubt, the case is to be reviewed by the Town Board or its designated agent. The Town Board shall render a decision within 30 days of the appeal.
- (17) No additional charges shall be assessed to collect in advance for services, however a service fee may be charged on accounts in arrears at the end of the billing period. The amount of such service fee must be so stated on quarterly billings. **[Amended 4-3-1985]**

- (18) Collectors are not responsible for brush, bulk refuse, garbage, refuse or yard trimmings that originate at any residence or establishment other than the owner's or customer's. **[Added 4-3-1985]**
- B. Violation of any of the foregoing regulations or any other provision of this Part 1 shall be cause for revocation of the license of any collector holding a license hereunder. The Town Board shall have the power to revoke any such license for cause shown after a hearing on 10 days' written notice to the license holder, specifying the nature of the violation, the complaint of said violation being in writing, signed by the complainant.

#### ARTICLE IV Enforcement

**§ 234-12. Enforcement; penalties for offenses. [Amended 3-4-1992; 6-20-2001 by L.L. No. 3-2001]**

- A. Inspections and appearance tickets.
- (1) All portions of vehicles and containers used to haul, transport or dispose of recyclable materials, including such containers placed outside of residences, shall be subject to inspection to ascertain compliance with this Part 1 by any police officer, peace officer, code officer and any other public official designated by the county or municipality.
  - (2) Police officers, peace officers, code officers and the specified public servants are hereby authorized and directed to issue appearance tickets for violations of this Part 1.
- B. Penalties.
- (1) Civil sanctions. The Town of Henrietta may commence civil action to enjoin or otherwise remedy any failure to comply with this Part 1.
  - (2) Criminal penalties. In addition to the civil sanctions provided herein, failure to comply with this Part 1 shall be a violation as defined in § 55.10 of the Penal Law, and penalties may be imposed thereunder and/or under § 10 of the Municipal Home Rule Law. More particularly, a violation of this Part 1 or any section or provision thereof shall be an offense and, upon conviction thereof, shall be punishable by a minimum fine of \$100 up to a maximum fine of \$250 or imprisonment for not more than 15 days, or by both such fine and imprisonment. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation. These penalties shall be in addition to the other remedies of the Town Board provided by this Part 1.
  - (3) Any penalties or damages recovered or imposed under this Part 1 are in addition to any other remedies available at law or equity.

**Part 2**  
**Solid Waste Management**  
**[Adopted 8-21-1991 by L.L. No. 3-1991]**

**ARTICLE V**  
**Recycling**

**§ 234-13. Title.**

This Part 2 shall be known as the "Solid Waste Management Local Law."

**§ 234-14. Findings.**

The Town Board of the Town of Henrietta finds that:

- A. Removal of certain materials from the solid waste stream will decrease the flow of solid waste to landfills, aid in the conservation of valuable resources and reduce the required capacity of existing and proposed resource facilities.
- B. The New York Solid Waste Management Act of 1988 requires that municipalities adopt a local law or ordinance by September 1, 1992, to require that solid waste which has been left for collection or which is delivered by the generator of such waste to a solid waste management facility shall be separated into recyclable, reusable or other components for which economic markets for alternate uses exist.

**§ 234-15. Purpose.**

This Part 2 is adopted pursuant to Chapter 541 of the Laws of 1976, as amended, and Chapter 552 of the Laws of 1980 of the State of New York, as amended,<sup>4</sup> in order to:

- A. Institute a plan for the management of recyclable materials generated or originated in the Town of Henrietta to promote the safety, health and well-being of persons and property within the Town of Henrietta.
- B. Implement the express policy of the State of New York encouraging solid waste reduction through recycling.

**§ 234-16. Definitions.**

As used in this Part 2, the following terms shall have the meanings indicated:

ADMINISTRATOR — The Solid Waste Administrator of Monroe County.

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4. Editor's Note: These enactments revised portions of the General Municipal Law and the Environmental Conservation Law. See particularly General Municipal Law § 120-w and Environmental Conservation Law § 27-0101 et seq.

**AUTHORIZED HAULER** — Any person licensed by the municipality under contract with the county to collect and transport recyclable materials generated or originated within the county.

**AUTHORIZED RECYCLING FACILITY OR FACILITIES** — A permitted or specifically exempt facility or facilities for processing, reprocessing and/or recycling recyclable materials specified in the regulations promulgated pursuant to Section V(A) of the Monroe County Solid Waste Reuse and Recycling Local Law. This term shall exclude incineration facilities, waste-to-energy facilities and landfills.

**CONTAINER** — A county-provided blue box container with a county logo for recyclable materials or any other durable container for recyclable materials readily identifiable by the authorized hauler as a container for recycling materials.

**COUNTY** — Monroe County.

**EXECUTIVE** — The County Executive of Monroe County.

**FACILITY** — Any solid waste management - resource recovery facility employed beyond the initial solid waste collection process which is to be used, occupied or employed for or is incidental to the receiving, transporting, storage, processing or disposal of solid waste or the recovery by any means of any material or energy product or resource therefrom, including recycling centers, transfer stations, processing systems, resource recovery facilities, sanitary landfills, plants and facilities for composting or landspreading of solid wastes, secure land burial facilities, reprocessing and recycling facilities, surface impoundments and waste oil storage, incinerators and other solid waste disposal, reduction or conversion facilities.

**HAZARDOUS WASTE** —

- A. Any hazardous waste as defined under the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., or a hazardous substance as defined under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., or hazardous waste as defined under New York Environmental Conservation Law § 27-0901 et seq., as each such law may be amended from time to time, and the regulations promulgated thereunder, and any analogous or succeeding federal, state or local law, rule or regulation and any regulations promulgated thereunder; and
- B. Any other material which any governmental agency or unit having appropriate jurisdiction shall determine from time to time cannot be processed at the facility because it is harmful, toxic or dangerous.

**OTHER RECOVERABLE MATERIALS** — Any material, substance, by-product, compound or any other item generated or originated within the county and separated from solid waste at the point of generation for separate collection, sale, external reuse or reprocessing and/or disposition other than by disposal in landfills, sewage treatment plants or incinerators. "Other recoverable materials" does not include recyclable materials as defined herein.

**PERSON** — Any natural person, partnership, association, joint venture, corporation, estate, trust, association, county, city, town, village, school district, improvement district, governmental entity or other legal entity.

RECYCLABLE MATERIAL — Includes but is not limited to the following:

A. CONTAINERS:

- (1) ALUMINUM — Aluminum products and containers fabricated primarily of aluminum and commonly used for soda, beer, beverages or other food or drink products and other aluminum products.
- (2) GLASS FOOD AND BEVERAGE CONTAINERS — New and used glass food and beverage containers which have been rinsed and are free of food contamination, including clear (flint), green and brown (amber) colored glass bottles. Glass shall not include ceramics, plate glass, auto glass, pyrex, leaded glass, mirrored glass or flat glass.
- (3) METAL CANS — Containers fabricated primarily of steel or tin or bimetal cans of steel, tin and/or aluminum, but not including aluminum cans.
- (4) PLASTICS — Includes high-density polyethylene (HDPE), low-density polyethylene (LDPE), polystyrene and polyethylene terephthalate (PET), commonly used for milk and other containers.

B. Paper:

- (1) BOXBOARD — Woodpulp-based material which is usually smooth on both sides but with no corrugated center; excludes material with wax coating.
- (2) CORRUGATED — Woodpulp-based material which is usually smooth on both sides with corrugated center, commonly used for boxes; excludes material with wax coating.
- (3) HIGH-GRADE PAPER — White and colored office bond, duplicating paper, computer paper and other high-quality paper.
- (4) MAGAZINES — Magazines, glossy catalogs and other glossy paper.
- (5) NEWSPRINT — Common, inexpensive machine-finished paper made chiefly from woodpulp and used for newspapers. This term excludes magazines.

C. Other:

- (1) CONSTRUCTION AND DEMOLITION DEBRIS — Material resulting from the construction, renovation, equipping, remodeling, repair and demolition of structures and roads and material consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm-related cleanup. Such material includes but is not limited to bricks, concrete and other masonry materials, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles, asphaltic pavement, glass, plastics, electrical wiring and components, carpeting, foam padding, linoleum and metals that are incidental to any of the above.
- (2) HOUSEHOLD APPLIANCES — Stoves, dishwashers, dryers, washing machines, water heaters and other appliances and scrap metal; refrigerators, microwave ovens

and televisions may incur an additional charge as approved by the Town Board.  
**[Amended 6-20-2001 by L.L. No. 3-2001]**

- (3) WOOD WASTE — Includes logs, pallets and other wood materials.
- (4) YARD WASTE — Grass clippings, leaves, branches up to four inches in diameter and other like vegetative garden materials.

RECYCLING or RECYCLED — Any method, technique or process utilized to separate, process, modify, convert, treat or otherwise prepare solid waste so that its component materials or substances may be beneficially used or reused as raw materials.

SOLID WASTE — All putrescible and nonputrescible solid wastes generated or originated within the county, including but not limited to materials or substances discarded or rejected, whether as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection or for any other reason, or which are being accumulated, stored or physically, chemically or biologically treated prior to being discarded, have served their intended use or are a manufacturing by-product, including but not limited to garbage, refuse and other discarded solid materials, including solid waste materials resulting from industrial, commercial and agricultural operations and from community activities, sludge from air or water pollution control facilities or water supply treatment facilities, refuse, ashes, contained gaseous material, incinerator residue, demolition and construction debris and offal, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form or hazardous waste as defined in this Part 2. **[Amended 6-20-2001 by L.L. No. 3-2001]**

SOURCE SEPARATION — The segregation of recyclable materials and other recoverable materials from solid waste at the point of generation for separate collection, sale or other disposition.

WASTE STREAM REDUCTION PROGRAM — Includes source separation, recycling programs, changes to the packaging portion of the waste stream to reduce solid waste generated, the activities and enterprises of scrap dealers, processors and consumers and other programs designed to reduce the volume of solid waste or enhance reclamation and recovery of solid waste or recyclable materials otherwise destined for the municipal waste stream. For purposes of this definition, such reduction programs shall not include the processing of waste for incineration or disposal by other means.

#### **§ 234-17. Waste delivery and disposal; source separation.**

- A. Solid waste generated or originated within the Town of Henrietta which has been left for collection or which is delivered by the generator of such waste to a facility shall be disposed of as follows:
  - (1) Prior to initial collection or transport such solid waste shall be source-separated into recyclable, reusable or other components for which economic markets exist as provided in the Monroe County Solid Waste Reuse and Recycling Regulations.

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- (2) Recyclable materials shall not be commingled with other solid waste during collection, transportation or storage following collection. The Town of Henrietta may order such exceptions as it determines are in the public interest.
  - (3) All recyclable materials generated or originated within the Town of Henrietta must be delivered to an authorized recycling facility or handled through a waste stream reduction program.
  - (4) No authorized recycling facility or waste stream reduction program shall receive recyclable materials generated or originated within the Town of Henrietta except as permitted by law.
- B. Disposal of solid waste which is barred from all authorized recycling facilities by rules, regulations or orders promulgated pursuant to this Part 2, the Monroe County Solid Waste Reuse and Recycling Law or by any other law, regulation or ordinance shall not otherwise be regulated by this Part 2.
  - C. No hazardous waste may be delivered to an authorized recycling facility.

**§ 234-18. Collection of recyclables placed at curbside.**

- A. Only persons who are acting under authority of the county or an authorized hauler shall collect pick up, remove or cause to be collected, picked up or removed any solid waste recyclable materials so placed for collection; each such unauthorized collection, pick up or removal shall constitute a separate violation of this Part 2; provided, however, that where the county or an authorized hauler has refused to collect certain recyclable materials because they have not been separated, placed or treated in accord with the provisions of this Part 2 or the Monroe County Solid Waste Reuse and Recycling Law, the person responsible for initially placing those materials for collection may and shall remove those materials from any curb, sidewalk or street side.
- B. Nothing herein shall prevent any person from making arrangements for the private collection, sale or donation of recyclable materials, provided that recyclable materials to be privately collected, sold or donated shall not be placed curbside on or immediately preceding the day for collection of such recyclable materials. Any and all recyclable materials placed in a county-supplied container at curbside or at any designated collection place shall immediately become the property of the county.

**§ 234-19. Authorized haulers; license to collect.**

- A. All authorized haulers must obtain a solid waste collection license from the Town of Henrietta and enter into an authorized hauler contract with the county.
- B. An authorized hauler sticker shall be prominently displayed on each vehicle operated by or on behalf of the authorized hauler.
- C. Authorized hauler applications may be denied if the applicant or licensee has been adjudged or administratively determined to have committed one or more violations of this Part 2 during the preceding calendar year.

- D. All authorized haulers licensed by the Town of Henrietta indemnify and hold harmless the Town of Henrietta for any pending, threatened or actual claims, liability or expenses arising from waste disposal by the authorized hauler in violation of this Part 2.
- E. Authorized haulers shall offer collection services for all recyclable materials to all residential customers for whom they provide solid waste collection services at the same times and on the same days as services are provided to their customers for solid waste collection.
- F. Each hauler shall develop and submit for county approval a generic collection plan for collecting recyclable materials from its commercial, industrial and institutional customers as described in Monroe County Solid Waste Reuse and Recycling Law, Article X.A.5.
- G. Authorized haulers shall not accept for collection solid waste which has not been source-separated in conformity with the regulations promulgated under Monroe County's Solid Waste Reuse and Recycling Law.

**§ 234-20. Approval, denial, suspension or revocation of license.**

- A. When the designated public official determines that a failure to comply with this Part 2 may have occurred, she/he shall recommend to the municipality that the authorized hauler application or the solid waste license be denied, suspended or revoked or its holder subjected to a reprimand or fine or that the generator or originator of the solid waste or recyclable materials be subject to sanctions, fines or penalties as described herein. Notice and an opportunity to be heard shall be provided prior to the denial, suspension or revocation of a solid waste license or authorized hauler permit or the issuance of a sanction, fine or penalty.
- B. Notice.
  - (1) The designated public official shall notify the affected generator, applicant or licensee of the alleged failure in writing. The notice shall include:
    - (a) A statement of the condition allegedly violated, referring to the pertinent ordinance, law, rule or regulation.
    - (b) A short and plain statement of the alleged misconduct.
    - (c) A statement of the time, place and nature of the hearing.
  - (2) The notice shall be personally served or sent by registered mail to the generator, applicant or licensee's last known address at least 10 days before the hearing date, with a copy to the administrator.
- C. Hearing.
  - (1) Hearings shall be held before the Town Justice within a reasonable period, which shall be at least 10 days after service of notice.
  - (2) The generator, applicant or licensee may be represented by counsel at the hearing and may offer evidence and cross-examine witnesses.



- (3) Within 20 days after the close of the hearing, the Town Justice shall:
  - (a) Determine whether the alleged failure to comply with this Part 2 has occurred; and
  - (b) If the Town Justice determines that such a failure has occurred, decide whether the generator or applicant shall be subject to fine or penalty, the application shall be denied or an existing solid waste license or authorized hauler status be suspended or revoked or its holder subjected to a reprimand and issue an order carrying out this decision.

D. Determinations, decisions and orders.

- (1) Disposition may be made by stipulation, agreed settlement, consent order, default or other informal method.
- (2) The Town Justice shall promptly notify the applicant or licensee, in writing, of the final determination, decision or order.

**§ 234-21. Enforcement; penalties for offenses.**

A. Inspections and appearance tickets.

- (1) All portions of vehicles and containers used to haul, transport or dispose of recyclable materials, including such containers placed outside of residences, shall be subject to inspection to ascertain compliance with this Part 2, the County Solid Waste Reuse and Recycling Law and the rules, regulations or orders promulgated pursuant to the county law by any police officer, peace officer, code officer and any other public official designated by the county or municipality.
- (2) Police officers, peace officers, code officers and the specified public servants are hereby authorized and directed to issue appearance tickets for violations of this Part 2.

B. Penalties. **[Amended 3-4-1992; 6-20-2001 by L.L. No. 3-2001]**

- (1) Civil sanctions. The Town of Henrietta may commence a civil action to enjoin or otherwise remedy any failure to comply with this Part 2.
- (2) Criminal penalties. In addition to the civil sanctions provided herein, failure to comply with this Part 2 shall be a violation as defined in § 55.10 of the Penal Law, and penalties may be imposed thereunder and/or under § 10 of the Municipal Home Rule Law. More particularly, a violation of this Part 2 or any section or provision thereof shall be an offense and, upon conviction thereof, shall be punishable by a minimum fine of \$100 up to a maximum fine of \$250 or imprisonment for not more than 15 days, or by both such fine and imprisonment. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation. These penalties shall be in addition to the other remedies of the Town Board provided by this Part 2.

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- (3) Any penalties or damages recovered or imposed under this Part 2 are in addition to any other remedies available at law or equity.

**§ 234-22. When effective.**

The provisions of this Part 2 shall be effective on the same date as the County Solid Waste Reuse and Recycling Law becomes effective.

**Part 3  
Construction Debris  
[Adoption pending]**

**ARTICLE VI  
Temporary Dumpsters and Containers**

**§ 234-23. Disposal of construction debris.**

All waste material from any construction project (commercial or residential) shall be disposed of in a timely and safe manner. When hazardous materials are involved, the disposal shall be in accordance with all state and federal laws, statutes, and/or local regulations.

**§ 234-24. Accumulation of waste prohibited.**

All waste and/or hazardous materials shall be contained in a proper dumpster/container or within the structure. It shall not be left to accumulate on the site.

**§ 234-25. Removal of waste.**

Once a dumpster is full, it shall be emptied within seven days. If an appropriate dumpster/container is not provided on site, the contractor/owner will remove the waste on a daily basis.

**§ 234-26. Responsibility for compliance.**

The person(s) responsible for making sure there is an appropriate dumpster/container or other means to collect debris on site is the person(s) who applied for the required building permit.

## Chapter 236

### STORMWATER MANAGEMENT

#### ARTICLE I Authority; Definitions

- § 236-1. Legislative authority.
- § 236-2. Definitions.

#### ARTICLE II Illicit Discharges and Prohibited Connections

- § 236-3. Purpose and intent.
- § 236-4. Applicability.
- § 236-5. Responsibility for administration.
- § 236-6. Scope.
- § 236-7. Powers and authority of inspectors.
- § 236-8. Prohibited discharges, connections and systems; exceptions.
- § 236-9. Suspension of MS4 access.
- § 236-10. Industrial or construction activity discharges.
- § 236-11. Applicability; access to facilities; monitoring of discharges.
- § 236-12. Use of best management practices required to prevent, control and reduce stormwater pollutants.
- § 236-13. Protection of waters of the United States.
- § 236-14. Notification of spills.

#### ARTICLE III Stormwater Control; Erosion and Sediment Control

- § 236-15. Introduction and purpose.

- § 236-16. Applicability.
- § 236-17. Compatibility with other permits and regulatory requirements.
- § 236-18. Standards for construction activities.
- § 236-19. Land disturbance activity approval process; exemptions.
- § 236-20. Financial guarantees.
- § 236-21. Stormwater pollution prevention plan requirements.
- § 236-22. Inspections.
- § 236-23. Duration, maintenance and closeout.
- § 236-24. Fees.

#### ARTICLE IV Design and Management of Postconstruction Stormwater Pollution Prevention Measures

- § 236-25. Findings and purpose.
- § 236-26. Applicability; exemptions.
- § 236-27. Compatibility with other permits and regulatory requirements.
- § 236-28. Compliance; required documentation.
- § 236-29. Waivers and mitigation requirements.
- § 236-30. General design and performance criteria.
- § 236-31. Stormwater pollution prevention plan requirements.
- § 236-32. Maintenance of stormwater management facilities.

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**§ 236-33. Inspection and right of entry.****§ 236-37. Correction of violations.****§ 236-34. As-built plans and project closeout.****§ 236-38. Action in cases of noncompliance.****§ 236-35. Landscape alterations.****§ 236-39. Appearance tickets.****§ 236-40. Penalties for offenses.**

## ARTICLE V

**Enforcement and Penalties****§ 236-36. Stop-work orders.****[HISTORY: Adopted by the Town Board of the Town of Henrietta 5-7-2008 by L.L. No. 1-2008. Amendments noted where applicable.]**

## GENERAL REFERENCES

Building and development — See Ch. 48.

Sewers — See Ch. 219.

Drainage — See Ch. 84.

Subdivision of land — See Ch. 245.

Flood damage prevention — See Ch. 125.

Zoning — See Ch. 295.

## ARTICLE I

**Authority; Definitions****§ 236-1. Legislative authority.**

In accordance with Article 4 of the Town Law of the State of New York, the Municipal Home Rule Law, and the Statutes of Local Government, the Town of Henrietta Board has the authority to enact laws for the purpose of promoting the health, safety, or general welfare of the Town of Henrietta, including the protection and preservation of the property of its inhabitants. By the same authority, Town Board of the Town of Henrietta may include in any such law provisions for the appointment of any municipal employees to effectuate and administer such law.

**§ 236-2. Definitions.**

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

**AGRICULTURAL ACTIVITY** — The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

**APPLICANT** — A property owner or agent of a property owner who has filed an application for a land disturbance activity or stormwater management permit.

**BEST MANAGEMENT PRACTICES (BMPs)** — Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance

systems. BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal or drainage from raw materials storage.

**CHANNEL** — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**CLEARING** — Any activity which removes the vegetative surface cover.

**FIRE MARSHAL/BUILDING INSPECTOR** — The manager of the Town of Henrietta's Building & Fire Prevention Department, as designated by the Town Board of the Town of Henrietta.

**CLEAN WATER ACT** — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) and any subsequent amendments thereto.

**CONSTRUCTION ACTIVITY** — Activities subject to SPDES construction permits. Currently, these include construction projects resulting in land disturbance of one acre or more. Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

**DEDICATION** — The deliberate appropriation of property by its owner for general public use.

**DESIGNATED AGENT** — The individual(s) directed by the Town of Henrietta to conduct site inspections and/or perform other municipal duties.

**DISCHARGER** — Any individual, association, organization, partnership, firm, corporation or other entity discharging stormwater to the municipal storm sewer.

**EARTHWORK** — Construction activities including clearing, grading, excavating, soil disturbance or placement of fill that result in land disturbance.

**EROSION CONTROL** — Measures that minimize erosion.

**FINAL STABILIZATION** — All soil-disturbing activities at the site have been completed and a uniform perennial vegetative cover with density of 80% has been established or equivalent measures, such as the use of mulches or geotextiles, have been employed on all unpaved areas and areas not covered by permanent structures.

**GRADING** — Excavation or fill of material, including the resulting conditions thereof.

**HAZARDOUS MATERIALS** — Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

**HOTSPOT** — An area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

**ILLEGAL DISCHARGE** — Any direct or indirect nonstormwater discharge to the storm drain system. For stormwater discharges to the sanitary sewer system, see Town Code Chapter 219.

**ILLICIT CONNECTIONS** —

A. Either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system, including, but not limited to, any conveyances which allow any nonstormwater discharge, including sewage, process wastewater and wash water, to enter the storm drain system and any connection to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by a government agency; or
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by the Town of Henrietta.

B. For stormwater connections to the sanitary sewer system, see Town Code Chapter 219.

**IMPERVIOUS COVER** — Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

**INDUSTRIAL ACTIVITY** — Activities subject to SPDES industrial permits as defined in 40 CFR 122.26(b)(14).

**INDUSTRIAL WASTES** — Any liquid, gaseous or solid substance or a combination thereof which is an undesired byproduct waste resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources, except garbage.

**INFILTRATION** — The process of percolating stormwater into the subsoil.

**JURISDICTIONAL WETLAND** — A wetland that meets the NYSDEC and/or Army Corps of Engineers standards, or a wetland the NYSDEC and/or the Army Corps of Engineers determines to be subject to its regulatory authority.

**LAND DISTURBANCE ACTIVITY** — Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.

**LANDOWNER** — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**LETTER OF CREDIT** — A document issued by a bank, which guarantees the payment of a customer's drafts for a specified period and up to a specified amount.

**LICENSED/CERTIFIED PROFESSIONAL** — A person currently licensed to practice engineering in New York State, a registered landscape architect or a certified professional in erosion and sediment control (CPESC).

**MAINTENANCE AGREEMENT** — A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

**NEW YORK STATE STORMWATER MANAGEMENT DESIGN MANUAL** — The most recent version of the New York State Stormwater Management Design Manual, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices; prepared by the Center for Watershed Protection, 8390 Main Street, Ellicott City, Maryland, for the New York State Department of Environmental Conservation.

**NEW YORK STANDARDS AND SPECIFICATIONS FOR EROSION AND SEDIMENT CONTROL** — The most recent version of this publication, which is commonly known as the "Blue Book"; prepared by the New York State Soil and Water Conservation Committee, Albany, New York, for the New York State Department of Environmental Conservation.

**NONSTORMWATER DISCHARGE** — Any discharge to the storm drain system that is not composed entirely of stormwater.

**OFF-SITE FACILITY** — A stormwater management measure located outside the subject property boundary.

**PERFORMANCE BOND** — A bond underwritten by a surety in the contract amount to guarantee that the contractor will perform the required work according to the contract specifications.

**PERSON** — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

**PHASING** — Clearing a parcel of land in distinct sections, with the stabilization of each section completed before the clearing of the next.

**POLLUTANT** — Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordnances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**PREMISES** — Any building, lot, parcel of land or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

**PRIVATE SEWAGE DISPOSAL SYSTEM** — A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility that treats sewage or other liquid wastes for discharge into the groundwater of New York State, except where a

permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

**QUALIFIED PROFESSIONAL** — A person knowledgeable in the principles and practices of erosion and sediment controls, such as a licensed professional engineer, registered landscape architect, certified professional in erosion and sediment control (CPESC), or soil scientist.

**RECHARGE** — The replenishment of underground water reserves.

**REDEVELOPMENT** — Reconstruction or modification to any existing, previously developed land such as residential, commercial, industrial, institutional or road/highway, which involves soil disturbance. Redevelopment is distinguished from development or new development in that new development refers to construction on land where there had not been previous construction. Redevelopment specifically applies to construction areas with impervious surface.

**RESPONSIBLE INDIVIDUAL** — As related to inspection of construction site erosion controls, any person with an in-depth understanding of the principles and practices of erosion and sediment control, stormwater management and the proper procedures and techniques for the installation and maintenance of erosion and sediment control features.

**SANITARY SEWER** — A sewer which transports sewage and to which storm, surface and ground waters are not intentionally admitted.

**SEDIMENT CONTROL** — Measures that prevent eroded sediment from leaving the site.

**SEWAGE** — A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm water as may be inadvertently present. The admixture of sewage with industrial wastes as defined above or other wastes also shall be considered "sewage" within the meaning of this definition.

**SILVICULTURAL ACTIVITY** — Activities that control the establishment, growth, composition, health and quality of forests and woodlands.

**SITE** — A parcel of land, or a contiguous combination thereof, where grading work is performed as a single unified operation.

**SITE PLAN APPROVAL** — The examination and subsequent authorization to proceed with a project based upon a drawing prepared to specifications and containing necessary elements which show the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

**SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES** — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

**SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS** — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.



## SPECIAL CONDITIONS —

- A. Discharge compliance with water quality standards: the condition that applies where a municipality has been notified that the discharge of stormwater authorized under its municipal separate storm sewer (MS4) permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the Town of Henrietta must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- B. 303(d) listed waters: the condition in the Town of Henrietta's MS4 permit that applies where the Town of Henrietta discharges to a 303(d) listed water. Under this condition, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- C. Total maximum daily load (TMDL) strategy: the condition in the Town of Henrietta MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by the EPA for a water body or watershed into which the Town of Henrietta discharges. If the discharge from the Town of Henrietta did not meet the TMDL stormwater allocation prior to September 10, 2003, the Town of Henrietta was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- D. The condition in the Town of Henrietta's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which the Town of Henrietta discharges: Under this condition, the Town of Henrietta must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If the Town of Henrietta is not meeting the TMDL stormwater allocations, the Town of Henrietta must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

START OF CONSTRUCTION — The first land disturbance activity associated with a development, including: land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) — A nationally approved program with permits issued in accordance with the Environmental Conservation Law that authorizes stormwater discharges from certain construction activities to waters of the United States.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT — A permit issued by NYSDEC [under authority delegated pursuant to 33 U.S.C. § 1342(b)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual or general area-wide basis.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

**STORM DRAINAGE SYSTEM** — Publicly owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels (i.e., ditches), reservoirs and other drainage structures.

**STORMWATER** — Any surface flow, runoff or drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

**STORMWATER MANAGEMENT** — The use of structural or nonstructural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, and/or peak flow discharge rates.

**STORMWATER MANAGEMENT OFFICER** — The Director of Engineering and Planning or an employee or officer designated by the Fire Marshal/Building Inspector to accept and review stormwater pollution prevention plans, forward the plans to the Town of Henrietta Planning Board and inspect stormwater management practices.<sup>1</sup>

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)** — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

**STORMWATER RUNOFF** — The flow on the surface of the ground resulting from precipitation.

**STORMWATER TREATMENT PRACTICES** — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**SURFACE WATERS OF THE STATE OF NEW YORK** — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water, which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**303(d) LIST** — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat and industrial use) are impaired by pollutants, prepared periodically by the Department of Environmental Conservation as required by Section 303(d) of the Clean Water Act. 303(d) listed water are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

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1. Editor's Note: Adoption of amendments pending.

§ 236-2

## STORMWATER MANAGEMENT

§ 236-5

**TOTAL MAXIMUM DAILY LOAD (TMDL)** — The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water allocated among the sources of that pollutant.

**WASTEWATER** — Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

**WATER QUALITY STANDARD VIOLATION** — An increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

**WATERS OF THE UNITED STATES** — Surface waters of the United States and water bodies as defined at 40 CFR 122.2, including all natural waterways and definite channels and depressions in the earth that may carry water, even though such waterways may only carry water during rains and storms and may not carry stormwater at and during all times and seasons.

**WATERWAY** — A channel that directs surface runoff to a watercourse or to the public storm drain.

**WETLAND** — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

## ARTICLE II

**Illicit Discharges and Prohibited Connections****§ 236-3. Purpose and intent.**

The purpose and intent of this article is to ensure the health, safety and general welfare of citizens, and protect and enhance the water quality of waters of the United States and water bodies in a manner pursuant to and consistent with the Federal Clean Water Act (33 U.S.C. § 1251 et seq.) by:

- A. Reducing pollutants in stormwater discharges to the maximum extent practicable; and
- B. Prohibiting nonstormwater discharges to the storm drain system.

**§ 236-4. Applicability.**

This article shall apply to all materials, solid or liquid, entering the storm system.

**§ 236-5. Responsibility for administration.**

The Fire Marshal/Building Inspector shall administer, implement and enforce the provisions of this article. Any powers granted or duties imposed upon the Town of Henrietta may be delegated in writing by the Town of Henrietta to persons or entities acting in the beneficial interest of or in the employ of the Town of Henrietta.

**§ 236-6. Scope.**

The standards set forth herein and promulgated pursuant to this article are minimum standards; therefore, this article does not intend or imply that compliance by any person will ensure that there will not be contamination, pollution nor unauthorized discharge of pollutants.

**§ 236-7. Powers and authority of inspectors.**

- A. The Town of Henrietta, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, records examination and copying, observation, measurements, sampling, and testing pertinent to discharge or potential to discharge, and for repair and maintenance to the municipal separate storm sewer system.
- B. Information and data on a nondomestic source obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction, unless the nondomestic source specifically requests and is able to demonstrate to the satisfaction of the Town of Henrietta that the release of such information would divulge information, processes or methods of production entitled to protection as confidential information according to the criteria set forth in 40 CFR 2.208 and 2.302, as may be amended from time to time.
  - (1) When requested by the person furnishing a report, the portions of a report which might disclose confidential information shall not be made available for inspection by the public. Stormwater constituents and characteristics will not be recognized as confidential information.
  - (2) Information accepted by the Town of Henrietta as confidential shall be made available upon request to any agency meeting the requirements of Section 308 of the Clean Water Act, including officers, employees or authorized representatives of the United States concerned with carrying out the Clean Water Act, bound by the confidentiality rules in 40 CFR Part 2, as may be amended from time to time.
- C. While performing the necessary work on private properties referred to in Subsection A above, the Town of Henrietta shall observe all safety rules applicable to the premises established by the person, and the person shall be held harmless for injury or death to the authorized representative(s), and the Town of Henrietta shall indemnify the person against loss or damage to its property by Town of Henrietta employees and against liability claims and demands for personal injury or property damage asserted against the person by Town of Henrietta employees and growing out of the inspection and sampling operation, except as such may be caused by negligence or failure of the person to maintain safe conditions.
- D. Unreasonable delays in allowing the Town of Henrietta access to the premises or other interference with the activities of the Town of Henrietta shall be a violation of this article. Access to property and/or records of a nondomestic source may not be refused on the basis that the Town of Henrietta refuses to sign any waiver, access agreement, or similar document.

- E. If the Town of Henrietta has been refused access to a building, structure or property or any part thereof, and if the Town of Henrietta has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of the Town of Henrietta to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Henrietta will make an application to a court of competent jurisdiction for a search and/or seizure warrant describing therein the specific location subject to the warrant. The warrant application shall specify what, if anything, may be searched and/or seized on the property described. If granted by the court, such warrant shall be served at reasonable hours by the Town of Henrietta in the company of a uniformed officer of the law enforcement agency with jurisdiction over the property. In the event of an emergency affecting public health and safety, inspections may be made without the issuance of a warrant.

**§ 236-8. Prohibited discharges, connections and systems; exceptions.**

A. Illegal discharges prohibited.

- (1) No person shall discharge or cause to be discharged into the municipal storm drain system or waters of the United States any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. Such activities include failing private sewage disposal systems as defined in § 236-2, improper management of animal waste or any other activity that causes or contributes to violations of the municipality's municipal separate storm sewer system (MS4) SPDES permit authorization.
- (2) Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that it no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

B. Prohibition exceptions. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this article: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated and non-sediment-laden pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air-conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated, typically less than one PPM chlorine), fire-fighting activities and any other water source not containing pollutants. Regardless of exemption, best management practices should be implemented to reduce impacts from the above activities.

- (2) Discharges specified in writing by the Town of Henrietta as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the Town of Henrietta prior to the time of the test.
- (4) The prohibition shall not apply to any nonstormwater discharge permitted under SPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the New York State Department of Environmental Conservation, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system by the Town of Henrietta.

C. Illicit connections prohibited.

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this article if the person connects a pipe or line conveying sewage to the municipal separate storm sewer system (MS4) or allows such a connection to continue.

D. Waste disposal prohibitions. No person shall throw, deposit, leave, maintain, keep, or permit to be thrown, deposited, left, or maintained, in or upon any public or private property, driveway, parking area, street, alley, sidewalk, component of the storm drainage system, or water of the United States, any refuse, rubbish, yard/lawn waste, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that the same may cause or contribute to pollution. Wastes deposited in streets in proper waste receptacles for the purposes of collection are exempted from this prohibition.

E. Prohibition against failing private sewage disposal systems. No person shall construct or maintain any cesspool, sewage disposal system, pipe or drain so as to expose or discharge the sewage contents or other deleterious liquids or matter therefrom to the atmosphere or on the ground surface or into any storm sewer or drain or as to endanger any waters of the United States or body of water unless a permit for such discharge shall have been issued by the Monroe County Department of Public Health or by the State Department of Health or the State Department of Environmental Conservation and such discharge shall be made in accordance with the requirements thereof. Owners or operators of private sewage disposal systems shall operate, maintain and inspect such systems in accordance with the Monroe County Sewer Use Law.

**§ 236-9. Suspension of MS4 access.**

- A. Suspension due to illicit discharges in emergency situations. The Town of Henrietta may, without prior notice, suspend discharge access into the MS4 to a person when such a

suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment; to the health or welfare of persons; to the storm drainage system, including but not limited to pipes, manholes, outfall structures and storm laterals; or the waters of the United States. If the violator fails to comply with a suspension order, the Town of Henrietta may take such steps as deemed necessary to prevent or minimize damage to the MS4 or waters of the United States or to minimize danger to persons.

- B. Suspension due to the detection of illicit discharge. Any person discharging to the MS4 in violation of this article may have his/her or its MS4 access suspended or terminated if such action would abate or reduce an illicit discharge. The Town of Henrietta will notify a violator of the proposed suspension or termination of its MS4 access. The violator may petition the Fire Marshal/Building Inspector to reconsider the suspension or termination of MS4 access by requesting a hearing.
- C. It shall be unlawful for any person to reinstate MS4 access to premises suspended or terminated pursuant to this section without the prior approval of the Town of Henrietta.

#### **§ 236-10. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town of Henrietta prior to discharge or as a condition of a subdivision map, site plan, building permit, or development or improvement plan; upon inspection of the facility; during any enforcement proceeding or action; or for any other reasonable cause.

#### **§ 236-11. Applicability; access to facilities; monitoring of discharges.**

- A. Applicability. This section applies to all facilities that the Town of Henrietta must inspect to enforce any provision of this article, or whenever the Town of Henrietta has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this article.
- B. Access to facilities.
  - (1) The Town of Henrietta shall be permitted to enter and inspect, at any time, facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Town of Henrietta.
  - (2) Facility operators shall allow the Town of Henrietta ready access to all parts of the premises for the purpose of inspection, sampling and examination of the private storm drainage system. Persons or facility operators must supply copies, if requested by Town of Henrietta, of all records kept under the conditions of the SPDES stormwater discharge permit. Persons or facility operators must also

identify the performance of any additional duties as defined by state and federal law.

- (3) The Town of Henrietta shall have the right to place or position on any permitted facility such devices as are necessary in the opinion of the Town of Henrietta to conduct monitoring and/or sampling of the facility's discharge to the storm sewer system.
- (4) The Town of Henrietta has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at his or her own expense. All devices used to measure stormwater flow and quality shall be calibrated as necessary and recommended by the manufacturer to ensure their accuracy.
- (5) Any temporary or permanent obstruction to the facility which allows for unsafe access or difficulty in monitoring, inspecting or sampling of the storm drainage system shall be promptly removed by the discharger at the written or verbal request of the Town of Henrietta and shall not be replaced. All costs associated with clearing such access restrictions shall be borne by the discharger in full.
- (6) Unreasonable delays, as determined by the Town of Henrietta, in allowing the Town of Henrietta access to a facility, which is permitted under the New York State Department of Environmental Conservation SPDES Program, for the purposes of conducting any activity authorized or required by the permit is considered a violation of said program and of this article.
- (7) If the Town of Henrietta has been refused access to any part of the premises from which a discharge or conveyance to the storm sewer system exists, and the Town of Henrietta is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to further inspect and/or sample the private stormwater system to verify compliance with this article or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Town of Henrietta may seek issuance of a search warrant from any court of competent jurisdiction.

**§ 236-12. Use of best management practices required to prevent, control and reduce stormwater pollutants.**

- A. Best management practices. Town of Henrietta will adopt requirements identifying best management practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or waters of the United States through the use of structural and nonstructural BMPs. Further, any person responsible for a property or premises, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal



storm drainage system. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the maximum extent practicable, shall be deemed compliant with the provisions of this section. Appropriately designed structural/nonstructural BMPs shall be included as part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the SPDES permit.

- B. Private sewage disposal systems. Where private sewage disposal systems are contributing to the Town of Henrietta being subject to the special conditions as defined in § 236-2 of this chapter, the owner or operator of such private sewage disposal system shall be required to maintain and operate the system as follows:
- (1) Private sewage disposal systems should be operated, maintained and inspected in accordance with the Monroe County Sewer Use Law.
  - (2) Septic tank additives shall not be used.
  - (3) Repair or replace private sewage disposal systems as follows:
    - (a) In accordance with Monroe County sewage design standard.
    - (b) No person shall alter, repair or extend a private sewage disposal system unless a permit is obtained from the Monroe County Public Health Director or his authorized representative.

#### **§ 236-13. Protection of waters of the United States.**

- A. No person shall alter a stormwater practice on private or publicly owned land such that it alters the stormwater practice from its intended use.
- B. Every person owning property through which a water of the United States passes, or such person's lessee, shall keep and maintain that part of the waters of the United States within the property in a manner which prevents illicit discharges and keeps the waters of the United States free of trash, debris, yard/lawn waste, excessive vegetation and other obstacles that would pollute, contaminate or significantly retard the flow of water through the waters of the United States. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a waters of the United States so that such structures will not become a hazard to the use, function or physical integrity of the waters of the United States.

#### **§ 236-14. Notification of spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in the illegal discharge of pollutants into stormwater, the public or private storm drain system or waters of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of any such release. In the event a release of hazardous materials occurs, said person shall immediately notify the NYSDEC Region 8 Spill Response Team

and/or call the NYS Spill Hotline within the time frame established by law as well as notify the Town of Henrietta of the occurrence. In the event of a release of nonhazardous materials, said person shall notify the Town of Henrietta in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Town of Henrietta, postmarked within three business days of the date of the in person or phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five years.

### ARTICLE III

#### **Stormwater Control; Erosion and Sediment Control**

##### **§ 236-15. Introduction and purpose.**

- A. Land disturbance activities and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. This stormwater runoff contributes to increased quantities of waterborne pollutants. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.
- B. During the construction process, soil is the most vulnerable to erosion by wind and water. This eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates maintenance and/or repair of sewers and ditches, and the dredging of waterways. In addition, clearing and/or grading during construction tends to increase soil erosion and causes the loss of native vegetation necessary for terrestrial and aquatic habitat, and to provide a healthy living environment for citizens of the Town of Henrietta. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing streambank erosion and sedimentation. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow.
- C. Regulation of land disturbance activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.
- D. As a result, the purpose of this article is to safeguard public health, protect property, prevent damage to the environment and promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity which disturbs or breaks the topsoil or results in the movement of earth on land in the Town of Henrietta. It seeks to meet those purposes by achieving the following objectives:
  - (1) Meet the requirements of minimum measures 4 and 5 of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, or as amended or revised;

- (2) Require land disturbance activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities, or as amended or revised;
- (3) Minimize increases in stormwater runoff from land disturbance activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;
- (4) Minimize increases in pollution caused by stormwater runoff from land disturbance activities which would otherwise degrade local water quality;
- (5) Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable; and
- (6) Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and ensure that these management practices are properly maintained and eliminate threats to public safety.

#### **§ 236-16. Applicability.**

This article shall be applicable to all land disturbance activities that will disturb one or more acres of land unless exempted under § 236-19B of this article. This article also applies to land disturbance activities that are less than a one-acre disturbance if such activities are part of a larger common plan of development or sale that will disturb one or more acres, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.

#### **§ 236-17. Compatibility with other permits and regulatory requirements.**

- A. Compliance with this article does not relieve the applicant of the obligation and responsibility to obtain separate coverage under the NYSDEC SPDES General Permit for Construction Activities if required. For projects also applying for coverage under the NYSDEC SPDES General Permit for Stormwater Discharges from Construction Activity, the applicant shall submit a copy of the following to the Director of Engineering and Planning for review and approval: stormwater pollution prevention plan (SWPPP), a notice of intent (NOI) with a certification statement including the date demonstrating submission to the NYSDEC, a letter of permission from the NYSDEC granting approval to disturb five acres or greater of land at one time (if applicable) and any related documents.
- B. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other federal, state, or local ordinance, rule or regulation, or other provision of law, the provisions that are more restrictive or impose more stringent requirements shall take precedence.

- C. Construction activities that involve land disturbance may also require additional compliance measures detailed in other regulations and/or ordinances such as Article IV, Design and Management of Postconstruction Stormwater Pollution Prevention Measures, of this chapter.

**§ 236-18. Standards for construction activities.**

- A. The Town of Henrietta requires the use of technical standards for erosion and sediment controls. These are detailed in the New York State Department of Environmental Conservation's Standards and Specifications for Erosion and Sediment Control. For the design of water quality and water quantity controls (postconstruction stormwater runoff control practices), the NYSDEC's technical standards are detailed in the New York State Stormwater Management Design Manual.
- B. Where stormwater management practices are not in accordance with the aforementioned technical standards, the applicant or developer must demonstrate equivalence to these technical standards and the SWPPP shall be prepared by a licensed/certified professional.

**§ 236-19. Land disturbance activity approval process; exemptions.**

- A. Application requirements.
  - (1) Any applicant requesting site plan approval or a permit for land disturbance activity which would require the disturbance of one or more acres of land shall also include with a submission a SWPPP that shall be reviewed and approved by the Stormwater Management Officer prior to issuance of the final site plan approval or a permit.
    - (a) No applicant shall be granted site plan approval or a permit which would require the disturbance of one or more acres of land without the review and approval of a SWPPP by the Stormwater Management Officer.
    - (b) Furthermore, prior to the issuance of a permit or site plan approval, all projects that would result in the disturbance of one or more acres of land will be required to comply with all applicable provisions of Article IV, Design and Management of Postconstruction Stormwater Pollution Prevention Measures, of this chapter. As part of the SWPPP, the applicant shall include a signed statement that all applicable requirements of Article IV have been met to the satisfaction of the Town of Henrietta.
    - (c) Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm, and shall be accompanied by a filing fee as set forth in § 236-24.
    - (d) Each application shall include a comprehensive and complete SWPPP that shall be prepared in accordance with § 236-21 of this article.

- (e) Each application shall include a statement that any land clearing, construction, or development involving the movement of land shall be in accordance with the submitted SWPPP.
  - (2) All land disturbance activities as defined in § 236-2 of this chapter not subject to site plan or permit approval shall be required to submit a SWPPP to the Stormwater Management Officer, who shall approve the SWPPP if it complies with the requirements of this article.
- B. Exemptions. The following activities are exempt from review under this article:
- (1) Any emergency activity, which is immediately necessary for the protection of public health, property or natural resources.
  - (2) Agricultural activity as defined in § 236-2.
  - (3) Silvicultural activity, except that landing areas and log haul roads are subject to this article.
  - (4) Routine maintenance activities that disturb fewer than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
  - (5) Repairs to any stormwater treatment practice deemed necessary by the Town of Henrietta.

#### **§ 236-20. Financial guarantees.**

The Town of Henrietta requires the applicant to submit a financial guarantee in a form acceptable to the Town of Henrietta prior to issuance of site plan approval or a permit in order to insure that the stormwater pollution prevention and erosion and sediment control practices are implemented and maintained by the applicant as required by the approved SWPPP. The amount of the financial guarantee shall be the total estimated construction cost of the stormwater pollution prevention and erosion and sediment control practices approved, plus a contingency. The financial guarantee shall contain forfeiture provisions for failure to complete work specified in the SWPPP. The financial guarantee shall be released in full only upon satisfaction of the requirements listed in § 236-23 of this article. At its discretion, the Town of Henrietta may allow for a partial release of the financial guarantee based on the completion of various development stages.

#### **§ 236-21. Stormwater pollution prevention plan requirements.**

- A. Stormwater Management Officer; SWPPP required; exception to professional review requirement.
  - (1) The Town of Henrietta shall designate a Stormwater Management Officer who shall accept and review all SWPPPs and notify the Planning Board of the approval of the final document. A consultant cannot be appointed as a Stormwater Management Officer. The Stormwater Management Officer may:

- (a) Review the plans;
    - (b) Engage the services of a New York State licensed professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by the Town Board; or
    - (c) Accept the certification of a licensed/certified professional that the plans conform to the requirements of this article.
  - (2) Prior to final approval of a land disturbance activity, a SWPPP shall be prepared by the applicant in accordance with the specifications outlined by the Town of Henrietta and submitted to the Stormwater Management Officer for review. This plan must be prepared in accordance with sound engineering practices by a qualified professional as defined in § 236-2 of this chapter. The final plan must be signed by a New York State licensed professional engineer (PE), who will certify that the design of all stormwater pollution prevention and erosion and sediment control practices meet the requirements outlined in the New York Standards and Specifications for Erosion and Sediment Control and shall be adequate to prevent transportation of sediment from the site to the satisfaction of the Stormwater Management Officer.
  - (3) The requirements to have a SWPPP prepared by a qualified professional and to have the final plan signed and certified by a New York State licensed professional engineer (PE) are not applicable to land disturbance activities that meet technical standards and are five acres or less occurring on a single-family residence, which is not part of a larger common plan of development, or an agricultural property. In addition, these land disturbance activities must not discharge directly to a 303(d) impaired water body or must not be located in a total maximum daily load (TMDL) watershed.
- B. Minimum requirements. All SWPPPs shall provide the following background information and erosion and sediment controls:
- (1) Background information about the scope of the project, including location, type and size of project and contact information that includes the name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the subject property or properties.
  - (2) Site map/construction drawing(s) for the project, including a general location map and a topographic base map of the site, at a scale of one inch equal 50 feet, which extends a minimum of 100 feet beyond the limits of the proposed development. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s), including receiving waters (name of the water), streams, ponds, culverts, ditches, and wetlands as well as drainage patterns that could be affected by the construction activity; existing and final slopes; locations of utilities, roads, soils types, forest cover, and significant natural and man-made features not otherwise shown; locations of off-site material, waste, borrow or equipment storage areas, proposed concrete clean-out basin(s) and construction

entrance; and location(s) of the stormwater discharge(s); and resources protected under other chapters of this code or by easements.

- (3) Description of the soil(s) present at the site.
- (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation, final grading and landscaping, and any other activity at the site that results in soil disturbance. Sequencing shall identify the expected date on which clearing will begin and the estimated duration of exposure of cleared areas. Consistent with the New York State Standards and Specifications for Erosion and Sediment Control, not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP and a letter of permission from the NYSDEC.
- (5) A description of the pollution prevention measures that will be used to control litter and prevent construction chemicals and construction debris from becoming a pollutant source in the stormwater discharges; a description of construction and waste materials expected to be stored on site with updates as appropriate; a description of controls that will be implemented to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater; and a description of spill-prevention and response measures.
- (6) A description of the temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land disturbance to project closeout, including who will be responsible for the maintenance and implementation of said features at the site and what practices will be employed to ensure that adequate vegetative cover is established and preserved. For temporary and permanent vegetative control measures, the seeding mixtures and rates, types of sod, method of seedbed preparation, depth of topsoil, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching shall be provided.
- (7) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.
- (8) Illustration of all necessary erosion and sediment control measures, including the siting and sizing of any temporary sediment basins and the dimensions, material specifications and installation details for each throughout all phases of construction and completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- (9) Identification of all temporary practices that will be converted to permanent control measures.
- (10) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place.

- (11) Identification of the parts or components of the SWPPP that require maintenance. Furthermore, it shall also provide a schedule of required maintenance and identify the party responsible for such work.
- (12) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.
- (13) Any existing data that describes the stormwater runoff at the site.
- (14) Assurance that all other applicable environmental permits have been acquired for the site prior to initial land disturbance. Copies of the applicable environmental permits shall be provided to the Town of Henrietta.
- (15) Assurance that the applicant or its responsible individual, as defined in § 236-2, shall be on site at all times when earthwork takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.
- (16) Assurance that all contractors and subcontractors involved in soil disturbance and/or stormwater management practice installation and maintenance shall be identified in the SWPPP. All such contractors and subcontractors shall sign a copy of the following certification statement before undertaking any land disturbance activity at the site: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the SWPPP. I also understand that it is unlawful for any person to cause or contribute to a violation of the water quality standards." The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made. The certification statement must be included in the SWPPP.

C. Modifications to the plan after approval.

- (1) Major amendments of the SWPPP shall be submitted to the Stormwater Management Officer and shall be approved or disapproved.
- (2) The applicant shall amend the SWPPP whenever:
  - (a) There is a significant change in design, construction, operation, or maintenance which may have a significant effect on the potential for the discharge of pollutants to the waters of the United States and which has not otherwise been addressed in the SWPPP; or
  - (b) If the SWPPP proves to be ineffective in providing the proper stormwater pollution prevention and erosion and sediment control as required by this article, amendments to the SWPPP must be made. A copy of the newly amended SWPPP must be provided to the Stormwater Management Officer within five business days for review and approval.
- (3) Additionally, the SWPPP shall be amended to identify any new contractor or subcontractor that will implement any measure of the SWPPP. The Stormwater



Management Officer may request copies of signed contractor certification statements from new contractors/subcontractors working on the site.

- (4) Field modifications of a minor nature may be authorized by the Stormwater Management Officer by written authorization to the applicant.

#### **§ 236-22. Inspections.**

##### **A. Town of Henrietta inspections.**

- (1) The Town of Henrietta or designated agent as defined in § 236-2 shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the applicant that the work fails to comply with the SWPPP. In addition, the Town of Henrietta reserves the right to enter the work site at any reasonable time for purposes of inspection. The SWPPP and the records of any inspections completed by the owner or its agent shall be maintained at the site in the site logbook from the date of initiation of construction activities to the date of final stabilization. To obtain inspections, the applicant shall notify the Town of Henrietta at least 48 hours before the following activities occur:
  - (a) Start of construction.
  - (b) Erosion and sediment control measures have been installed and stabilized.
  - (c) Site clearing has been completed.
  - (d) Rough grading has been completed.
  - (e) Final grading has been completed.
  - (f) Close of the construction season.
  - (g) Final landscaping.
  - (h) Closeout inspection.
- (2) The above inspection timetable does not relieve the owner of the obligation under this or any other permit or regulation to conduct regular inspections as set forth in said permit and/or regulation.
- (3) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further earthwork shall be conducted on the site, except for site stabilization, until the violations are corrected and approved by the Town of Henrietta.

##### **B. Property owner/developer inspections.**

- (1) The applicant shall employ a responsible individual, as defined in § 236-2 of this chapter, who will oversee the implementation of the SWPPP on a daily basis. The responsible individual shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. The applicant shall also employ the services of a

qualified professional in erosion and sediment control who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more and provided to the Stormwater Management Officer by e-mail within 24 hours of the inspection. A monthly summary of reports will be copied to the site logbook and delivered to the Stormwater Management Officer within five days after the month's end.

- (2) The requirement to employ a qualified professional to inspect and document the effectiveness of all erosion and sediment control practices is not applicable to land disturbance activities five acres or less occurring on a single-family residence, which is not part of a larger common plan of development or on an agricultural property. In addition, these land disturbance activities must not discharge directly to a 303(d) impaired water body or must not be located in a total maximum daily load (TMDL) watershed.

#### **§ 236-23. Duration, maintenance and closeout.**

##### **A. Duration.**

- (1) For a project that requires a NYSDEC SPDES Permit, the SWPPP approved by the Stormwater Management Officer shall be in effect until:
  - (a) The site has been finally stabilized;
  - (b) A notice of termination (NOT) is submitted to the NYSDEC in accordance with the general permit; and
  - (c) A final inspection has been completed by the Town of Henrietta.
- (2) For projects that do not require a NYSDEC NOT, the SWPPP is in effect until a final inspection is conducted and the Stormwater Management Officer has issued the applicant written approval.

##### **B. Maintenance.**

- (1) The applicant shall at all times properly operate and maintain all stormwater management facilities and erosion and sediment control measures which are installed or used by the applicant to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%. The land disturbance activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.
- (2) At the end of the construction season, when soil disturbance activities will be finalized or suspended until the following spring, it may be desirable to reduce the frequency of the required weekly site inspections to monthly inspections. In order to reduce inspection frequencies, the applicant must complete stabilization activities before proper installation is precluded by snow cover or frozen ground. If

vegetation is used as a stabilization method, seeding, planting, and/or sodding must be scheduled to avoid fall frosts and to allow for proper germination/establishment. Installations and maintenance must be done according to the New York State Standards and Specifications for Erosion and Sediment Control.

C. Closeout. The applicant must satisfy the following project closeout requirements:

- (1) Reestablish grade of all permanent stormwater facilities.
- (2) Inspect grading of all drainage structures and provide elevation as-builts to the Town of Henrietta.
- (3) Establish perennial vegetative cover to a density of 80% over 100% of the site.
- (4) Removal of all debris and temporary erosion and sediment control practices.
- (5) Provide a written certification by a New York State licensed/certified professional that the site has undergone final stabilization (as defined in § 236-2) and that all temporary erosion and sediment controls not needed for long-term erosion control have been removed.
- (6) Complete any other measure deemed appropriate and necessary by the Town of Henrietta to stabilize the project site.

#### **§ 236-24. Fees.**

The developer, prior to the scheduling a preconstruction meeting, shall pay the stormwater fees as established by the Town Board of the Town of Henrietta.

### **ARTICLE IV**

#### **Design and Management of Postconstruction Stormwater Pollution Prevention Measures**

#### **§ 236-25. Findings and purpose.**

- A. Land development projects and associated increases in impervious cover alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, and sediment transport and deposition. This stormwater runoff contributes to increased quantities of waterborne pollutants. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from development sites.
- B. The purpose of this article is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing in the watersheds within the Town of Henrietta. Therefore, the Town of Henrietta establishes this set of water quality and quantity policies to provide reasonable guidance for the regulation of stormwater runoff and to, in addition to the above, safeguard persons, protect property, prevent damage to the environment in Town of Henrietta, and comply with the NYSDEC State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from municipal separate storm

sewer systems (MS4s), for the purpose of protecting local water resources from degradation.

- C. It is determined that the regulation of stormwater runoff discharges from land development projects and other construction activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will prevent threats to public health and safety.

**§ 236-26. Applicability; exemptions.**

- A. This article shall be applicable to land disturbance activities as defined in § 236-2 of this chapter, and those activities meeting Condition A, B, C or D below shall include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in § 236-31 as applicable unless eligible for an exemption or granted a waiver by the Town of Henrietta in accordance with § 236-29 of this article:
- (1) Condition A: stormwater runoff from land disturbance activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
  - (2) Condition B: stormwater runoff from land disturbance activities disturbing five or more acres.
  - (3) Condition C: stormwater runoff from land disturbance activity disturbing between one acre and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.
  - (4) Condition D: stormwater runoff from land disturbance activity that are smaller than one acre of disturbance if such activities are part of a larger common plan of development, even though multiple separate and distinct land disturbance activities may take place at different times on different schedules.
- B. All plans, documents and information required by this article must be reviewed by the Stormwater Management Officer to ensure that established water quality standards will be maintained during and after development of the site and that postconstruction runoff levels are consistent with any local and regional watershed plans.
- C. When a site development plan is submitted that qualifies as a redevelopment project as defined in § 236-2 of this chapter, decisions on permitting and on-site stormwater requirements shall be governed by special stormwater sizing criteria found in the current New York State Stormwater Management Design Manual. Final authorization of all redevelopment projects will be determined after a review by the Stormwater Management Officer. This applies to all redevelopment projects that are greater than or equal to one acre.
- D. The following activities may be exempt from the requirements of this article:

- (1) Any emergency activity which is immediately necessary for the protection of life, property or natural resources.
- (2) Agricultural activity as defined in § 236-2.
- (3) Silvicultural activity, except that landing areas and log haul roads are subject to this article.
- (4) Routine maintenance activities that disturb fewer than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.
- (5) Repairs to any stormwater treatment practice deemed necessary by the Town of Henrietta.

**§ 236-27. Compatibility with other permits and regulatory requirements.**

- A. This article is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. The requirements of this article should be considered minimum requirements, and where any provision of this law imposes restrictions different from those imposed by any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health and/or the environment shall be considered to take precedence.
- B. Construction activities that involve land disturbance may also require additional compliance measures detailed in other regulations and/or ordinances.

**§ 236-28. Compliance; required documentation.**

- A. No person(s) shall receive any of the building, grading or other land disturbance approvals or permits required for land disturbance activities without first meeting the requirements of this article to the satisfaction of the Town of Henrietta.
- B. Unless specifically excluded by this article, any landowner or operator desiring approval or a permit for a land disturbance activity shall comply with all applicable provisions of this article and shall submit all required plans, documentation and information as required under this article to the Town of Henrietta for review and approval.
- C. Required documentation.
  - (1) Unless otherwise accepted by this article, the following items shall be submitted prior to the issuance of a permit or site plan approval:
    - (a) Stormwater pollution prevention plan (SWPPP). (See § 236-31.)
    - (b) Maintenance easement(s). (See § 236-32.)
    - (c) Maintenance agreement(s). (See § 236-32.)

- (2) The SWPPP shall be prepared to meet the requirements of § 236-31 of this article. The maintenance agreement shall be prepared to meet the requirements of § 236-32 of this article and any applicable fees.
- (3) The SWPPP and all other documents required by this article must be reviewed by the Stormwater Management Officer to ensure that established water quality standards will be maintained after development of the site and that postconstruction runoff levels are consistent with any local and regional watershed plans. Information shall be submitted as a single, logical package, with all information bound together.

**§ 236-29. Waivers and mitigation requirements.**

No waivers or mitigation plans will be considered for land disturbance activity that disturbs one acre or greater of land.

**§ 236-30. General design and performance criteria.**

- A. The applicant shall consult the Town of Henrietta's design criteria, the New York State Stormwater Management Design Manual and the New York Standards and Specifications for Erosion and Sediment Control for standards and specifications related to stormwater management design criteria. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article. If there is a conflict between any of the standards, the more stringent standard shall apply. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in this section and § 236-31 of this article, and the SWPPP shall be prepared by a licensed/certified professional.
- B. The following design and performance criteria shall be addressed for stormwater management at all sites:
  - (1) All site designs shall establish stormwater management practices to control the peak flow rates of stormwater discharge associated with specified design storms and reduce the generation of stormwater. These practices should seek to utilize pervious areas for stormwater treatment and to infiltrate stormwater runoff from driveways, sidewalks, rooftops, parking lots, and landscaped areas to the maximum extent practicable to provide treatment for both water quality and quantity.
  - (2) All stormwater runoff generated from new development shall not discharge untreated stormwater directly into a jurisdictional wetland or local water body without adequate treatment. Where such discharges are proposed, the impact of the proposal on wetland functional values shall be assessed using a method acceptable to the Town of Henrietta. In no case shall the impact on functional values be any greater than that allowed by the Army Corps of Engineers (COE) or the NYSDEC responsible for natural resources.

- (3) An attempt shall be made to maintain annual groundwater recharge rates by promoting infiltration through the use of structural and nonstructural methods. At a minimum, an attempt shall be made for annual recharge from the postdevelopment site to mimic the annual recharge from predevelopment site conditions.
- (4) In order to protect stream channels from degradation, a specific channel protection criteria shall be provided as prescribed in the New York State Stormwater Management Design Manual.
- (5) Stormwater discharges to critical areas with sensitive resources may be subject to additional performance criteria, or may need to utilize or restrict certain stormwater management practices.
- (6) Stormwater discharges from land uses or activities with higher potential pollutant loadings, known as "hotspots," may require the use of specific structural stormwater treatment practices and pollution prevention practices.
- (7) Prior to design, applicants are required to consult with the Town of Henrietta to determine if they are subject to additional stormwater design requirements.
- (8) The calculations for determining peak flows (WQv) as found in the New York State Stormwater Management Design Manual shall be used for sizing all stormwater management practices.

**§ 236-31. Stormwater pollution prevention plan requirements.**

- A. A SWPPP is required as part of the compliance with this article. This plan must be prepared by a qualified professional and must indicate whether stormwater will be managed on site or off site and, if on site, the general location and type of practices and shall also include sufficient information (e.g., maps, hydrologic calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The plan must be signed by a New York State licensed professional engineer (PE), who will verify that the design of all stormwater management practices meet the submittal requirements outlined in the New York State Stormwater Management Design Manual. No building or grading permit or site plan approval shall be issued until a satisfactory stormwater pollution prevention plan, or a waiver thereof, has undergone a review and been approved by the Town of Henrietta after determining that the plan or waiver is consistent with the requirements of this article.
- B. The applicant shall employ a responsible individual, as defined in § 236-2 of this chapter, who will oversee the implementation of the SWPPP on a daily basis. The applicant shall also employ the services of a qualified professional in erosion and sediment control who will inspect and document the effectiveness of all erosion and sediment control practices. The documentation will be kept in a site logbook. Inspection reports will be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. A monthly summary of reports will be copied to the site logbook and delivered to Town of Henrietta within five days after the month's end.

## C. All SWPPPs shall provide the following information:

- (1) All information listed in Article III, Stormwater Control; Erosion and Sediment Control, § 236-21.
- (2) Description of each postconstruction stormwater management practice.
- (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice. The map(s) will also clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses. A written description of the site plan and justification of proposed changes in natural conditions may also be required.
- (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms, including calculations such as a description of the design storm frequency, intensity and duration; time of concentration; soil curve numbers or runoff coefficients; peak runoff rates and total runoff volumes for each watershed area; infiltration rates, where applicable; culvert capacities; flow velocities; data on the increase in rate and volume of runoff for the design storms referenced in the New York State Stormwater Management Design Manual, and documentation of sources for all computation methods and field test results.
- (5) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions.
- (6) Dimensions, material specifications and installation details for each postconstruction stormwater management practice.
- (7) The design and planning of all stormwater management facilities shall include detailed maintenance and repair procedures, including a schedule to ensure their continued function. These plans will identify the parts or components of a stormwater management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
- (8) The applicant must ensure access to all stormwater treatment practices at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and will remain in effect even with transfer of title to the property. See § 236-32 of this article for additional information.
- (9) The applicant must execute an easement and an inspection and maintenance agreement binding on all subsequent owners of land served by the on-site stormwater management measure(s) in accordance with the specifications of this article. See § 236-32 of this article for additional information.
- (10) The SWPPP shall be prepared by a qualified professional, and the final plan must be signed by a New York State licensed professional engineer, who shall certify



that the design of all stormwater management practices meet the requirements in this article.

- (11) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.
- (12) The Town of Henrietta may also require a concept plan to consider the maximum development potential of a site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential.
- (13) The applicant must present a detailed plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the soil and water conservation district and in compliance with landscaping specifications outlined in the New York State Stormwater Management Design Manual.
- (14) The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

**§ 236-32. Maintenance of stormwater management facilities.**

- A. Maintenance easement. The applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the stormwater management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Henrietta, or its contractor or agent, to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article and to if necessary implement emergency repairs to protect the health, safety and welfare of the public. The easement dimensions shall be as directed by the Fire Marshal/Building Inspector and the easement agreement shall be recorded in the office of the County Clerk, with a copy provided to the Town of Henrietta.
- B. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance also includes, at a minimum, the following:
  - (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.

- (2) Written procedures for operation and maintenance and training new maintenance personnel.
  - (3) Discharges from the stormwater management practices shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 236-2 of this chapter.
- C. Maintenance agreements. The maintenance and proper operation of all privately owned stormwater management facilities, including nonstructural practices, shall be ensured through the creation of a formal and enforceable maintenance agreement that must be approved by the Fire Marshal/Building Inspector and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. This agreement will include any and all maintenance easements required to access and inspect the stormwater management practices, and will outline the procedures and schedule to be followed to perform routine maintenance as necessary to ensure proper functioning of the stormwater management practice. In addition, the legally binding agreement shall identify the parties responsible for the proper maintenance of all stormwater treatment practices and include plans for periodic inspections by the owners, or their designated agent, to ensure proper performance of the facility. The maintenance agreement shall be consistent with the terms and conditions of the stormwater control facility maintenance agreement.
- D. Requirements of maintenance agreements. All stormwater management facilities must undergo, at the minimum, a five-year inspection by a qualified professional in erosion and sediment control at the expense of the landowner, to document maintenance and repair needs to ensure compliance with the requirements of this article and accomplishment of its purposes. These needs may include removal of silt, litter and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be identified in writing, along with the schedule and methods to be employed to complete the maintenance. The maintenance repairs and restoration schedule are to be approved by the Fire Marshal/Building Inspector prior to commencing the work, and the Town of Henrietta shall inspect the facility upon completion of the work. The inspection and maintenance requirement may be increased by the Town of Henrietta as deemed necessary to ensure proper functioning of the stormwater management facility.
- E. Records of installation and maintenance activities. Parties responsible for the operation and maintenance of a stormwater management facility shall make records of the installation and of all maintenance and repairs, and shall retain the records for at least five years. These records shall be made available to the Town of Henrietta during inspection of the facility and at other reasonable times upon request.
- F. Maintenance guarantees for privately owned stormwater facilities. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the applicant or by a corporation that owns or manages a commercial or industrial facility, the applicant, prior to construction, may be required to provide the Town of Henrietta with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until

the Town of Henrietta acknowledges compliance with all details of approved site plan. If the applicant or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Henrietta may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs, until the Town of Henrietta acknowledges compliance with all details of the approved site plan.

**§ 236-33. Inspection and right of entry.**

- A. The Fire Marshal/Building Inspector or his/her designated agent shall make inspections at the expense of the landowner as set forth in the attached fee schedule,<sup>2</sup> at any reasonable time for purposes of inspecting the construction of the stormwater management facilities. Inspections may include but are not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices. If any violations are found, the property owner shall be notified of the nature of the violation and the required corrective actions. No added work shall proceed until any violations are corrected and all work previously completed has received approval by the Town of Henrietta.
- B. Furthermore, when any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, or combined sewer, the property owner shall grant to the Town of Henrietta the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this article is occurring or has occurred, and to enter when necessary for abatement of a public nuisance or correction of a violation of this article.

**§ 236-34. As-built plans and project closeout.**

All applicants are required to submit actual as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a New York State licensed professional engineer. A final inspection by the Town of Henrietta is required before the release of any performance securities can occur.

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2. Editor's Note: See Ch. A301, Fee Schedules.

**§ 236-35. Landscape alterations.**

All applicants are responsible for maintaining the grading of the site so that it is consistent with the certified as-built plans. Any postconstruction alterations to the landscape shall receive prior approval from the Town of Henrietta. Temporary landscape alterations, such as those associated with utility excavations and landscaping activities, must be restored to conditions that are consistent with the certified as-built plans.

## ARTICLE V

**Enforcement and Penalties****§ 236-36. Stop-work orders.**

- A. Whenever the Fire Marshal/Building Inspector has reasonable grounds to believe that work on any site is proceeding without a valid stormwater permit or the site is otherwise in violation of the provisions of any applicable law, code, ordinance or regulation or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued or is being continued in an unsafe and dangerous manner, the Fire Marshal/Building Inspector shall notify either the owner of the property or the owner's agent or the operator performing work to immediately suspend all work. Such notice shall be in writing and shall be known as a "stop-work order." In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.
- B. Such stop-work order shall be in writing on a form prescribed by the Fire Marshal/Building Inspector and shall state the reason for the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Fire Marshal/Building Inspector or his/her authorized representative and shall be prominently posted at the work site. The posting of a stop-work order on the job site shall be deemed sufficient notice to suspend all work.

**§ 236-37. Correction of violations.**

- A. Commencement of proceedings. Whenever the Fire Marshal/Building Inspector or his/her authorized representative has inspected any site and has determined that said site is in violation of any provision of this chapter, the Fire Marshal/Building Inspector or his/her duly authorized representative shall commence proceedings to cause the correction of the violation.
- B. Notice to correct a violation. Absent an emergency, as set forth in this section, whenever the Fire Marshal/Building Inspector or his/her authorized representative determines that a site is in violation of any provision of this chapter, he/she shall give notice by regular mail of such violation or alleged violation to the person or persons responsible for such violation or upon the owner, occupant, agent or operator, as the case may require. Such notice shall be in writing and shall specify the alleged violation and shall provide a reasonable time of not less than 10 calendar days for compliance. Such notice may contain an outline or mention of the remedial action that will be taken to effect compliance in the event the owner or operator does not comply with said notice within

the time period specified therein. The Fire Marshal/Building Inspector or his/her authorized representative may extend the compliance time specified in any notice issued under the provisions of this chapter where there is evidence of intent to comply within the period specified, provided that reasonable conditions exist which prevent immediate compliance.

- C. Emergency action. Whenever the Fire Marshal/Building Inspector or his/her authorized representative has determined that a condition exists which poses an immediate threat to health, safety, or the environment, he/she may, without prior notice, issue a notice citing the violation and ordering that such action be taken as is necessary to remove or abate the hazard or danger. Such notice may include an order to stop work, stabilize the site or take other appropriate emergency measures. Notwithstanding any other provision of this chapter, such an order shall be effective immediately upon personal service to the person or persons responsible for such violation or upon the owner, occupant, agent or operator, as the case may require and/or posting of the site and shall be complied with immediately or as otherwise provided. The Fire Marshal/Building Inspector or his/her authorized representative may extend the compliance time specified in any order issued under the provisions of this chapter where there is evidence of intent to comply within the period specified, provided that reasonable conditions exist which prevent immediate compliance. Whenever the Fire Marshal/Building Inspector or his/her authorized representative determines that the condition which poses an immediate threat to health, safety, or the environment has not been corrected in the time specified by the order issued, he/she may take such direct action as is necessary, including demolition or whatever other action may be required to remove or abate the hazard or danger. Expenses incurred in the execution of such orders shall be recovered as provided herein.

**§ 236-38. Action in cases of noncompliance.**

- A. Whenever a notice or notices referred to in the above subsection of this chapter has been or have been served by regular mail and personal service upon the person or persons responsible for such violation or upon the owner, occupant, agent or operator, as the case may require, or posting of premises where violations are deemed to exist, and such owner or owners shall neglect or fail to comply with the requirements of such notice or notices within the time provided therein, the Fire Marshal/Building Inspector or his/her authorized representative may authorize the work to be done and pay the cost thereof out of general Town funds.
- B. The Town shall be reimbursed for the cost of the work performed or services rendered by direction of the Fire Marshal/Building Inspector or his/her authorized representative, as hereinabove provided, by assessment and levy upon the lots or parcels of land wherein such work was performed or such services rendered, and the expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town charges.

**§ 236-39. Appearance tickets.**

The Fire Marshal/Building Inspector or his/her authorized representative shall have the authority, pursuant to the New York State Criminal Procedure Law, to issue an appearance ticket subscribed by him/her, directing a designated person to appear in a designated local criminal court at a designated future time in connection with the alleged commission of a designated violation of this chapter or any order made thereunder.

**§ 236-40. Penalties for offenses.**

Failure to comply with any provision or requirement of this chapter, or any statement, plan, application, approval, permit or certification provided pursuant to the provisions of this chapter shall be deemed a violation punishable by a fine not exceeding \$350 or imprisonment for a period of 15 days, or both for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$350 nor more than \$700 or imprisonment for a period not to exceed 15 days, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed 15 days or both. Each week's continued violation shall constitute a separate additional violation.

## Chapter 240

### STREETS, SIDEWALKS AND DRIVEWAYS

#### ARTICLE I Driveways

- § 240-1. Permission required.
- § 240-2. Application; special requirements.
- § 240-3. Construction standards.
- § 240-4. Appeals; exceptions.
- § 240-5. Application for permits.
- § 240-6. Penalties for offenses.

#### ARTICLE II Notification of Defects

- § 240-7. Written notice of defect required.
- § 240-8. Notices to be transmitted to Clerk and presented to Board.

- § 240-9. Indexed record to be maintained.

- § 240-10. Supersession of statute.

#### ARTICLE III Obstructions

- § 240-11. Obstruction of rights-of-way prohibited.
- § 240-12. Removal.
- § 240-13. Penalties for offenses; enforcement.
- § 240-14. Storage and disposal.

#### ARTICLE IV Deposits of Snow and Ice

- § 240-15. Deposit on public way prohibited.
- § 240-16. Penalties for offenses.

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

#### GENERAL REFERENCES

Numbering of buildings — See Ch. 52.  
Drainage — See Ch. 84.

Parking — See Ch. 183.  
Vehicles and traffic — See Ch. 273.

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#### ARTICLE I Driveways [Adopted 10-5-1966]

##### § 240-1. Permission required.

No person, firm or corporation shall, after the effective date of this article, cut, construct or locate any driveway entrance or exit into a highway of the Town of Henrietta without having first received permission so to do from the Town Superintendent of Highways of said Town.

**§ 240-2. Application; special requirements.**

Any person, firm or corporation desiring to make, construct or locate a driveway entrance or exit into a Town highway of Henrietta shall make an application for a permit so to do to the Town Superintendent of Highways of said Town. In addition to the general standard driveway entrance and exit crossing requirements set forth hereinbelow, the Town Superintendent of Highways of the Town of Henrietta may impose any special requirements which the particular situation at the location where such driveway is sought to be located requires in his judgment under the circumstances.

**§ 240-3. Construction standards. [Amended 10-5-2011 by L.L. No. 2-2011<sup>1</sup>]**

The standard driveway construction, entrance and exit crossing requirements shall be as follows:

- A. The applicant shall furnish all materials and bear all costs of construction within the Town highway right-of-way and pay the cost of all work done and materials furnished as required to meet the conditions of any permit issued by the Town Superintendent of Highways.
- B. No alteration or addition shall be made to any driveway heretofore or hereafter constructed nor shall any such driveway be relocated without first securing a new permit from the Town Superintendent of Highways.
- C. No more than two driveways to a single commercial establishment entering on one highway shall be permitted.
- D. The maximum width for a single combined entrance or exit shall be not more than 50 feet for commercial use and not more than 24 feet for residential use. The maximum width for each commercial driveway when two are permitted shall not be more than 35 feet.
- E. The angle of the driveway with respect to the pavement shall not be less than 45°.
- F. No driveway shall be permitted within 50 feet of any public highway intersection.
- G. No driveway will be permitted where sight distance is less than 350 feet in each direction.
- H. A fully dimensioned plan of the proposed driveway shall be attached to each application for a permit required hereunder.
- I. Any culvert pipe required to be installed at such driveway entrance or exit shall be of smooth-interior corrugated plastic pipe, reinforced concrete pipe or corrugated metal pipe no smaller than 12 inches in diameter and no shorter than 26 feet in length.
- J. All driveways in residential districts shall be improved and paved with asphalt or concrete. Notwithstanding the provisions for the width of an entrance set forth in Subdivision D above, the maximum width of the driveway shall be the greater of 20 feet

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1. Editor's Note: Amendments pending adoption.



or one foot beyond the garage dimensions on the entrance side of the garage. Driveways shall not be located closer than eight feet to the property line.

K. Driveway extensions.

- (1) Driveway extensions shall be allowed in residential districts, provided that the surface of same be made of asphalt, concrete, or crushed stone a minimum of six inches in depth. Driveway extensions must be adjacent to the garage and cannot extend beyond the entrance or rear of the garage structure. They can be no wider than 10 feet and no closer to the property line than five feet.
- (2) Extension of a driveway past the right-of-way shall be limited to 24 feet wide continuing up to the structure.

L. Driveways and driveway extensions existing at the time of the enactment of Subsections J and K above shall be considered legal, nonconforming driveways but shall not be dimensionally altered other than in conformance with the requirements of this section.

**§ 240-4. Appeals; exceptions. [Amended 10-5-2011 by L.L. No. 2-2011]**

- A. Any aggrieved person or entity may seek relief from these regulations by appeal to the Zoning Board of Appeals in accordance with the procedures and standards set forth in Chapter 295, Zoning, of the Henrietta Town Code and Article 16 of the New York State Town Law.
- B. Where driveway entrances and exits are shown on the plot of a subdivision which has been filed in the Monroe County Clerk's office after approval by the Planning Board of the Town of Henrietta, no permit shall be required under the provisions of this article.

**§ 240-5. Application for permits.**

Applications for permits shall be on forms furnished by the Town Superintendent of Highways or Town Clerk and shall be filed in the Town Clerk's office.

**§ 240-6. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

Any person, firm or corporation who or which violates the provisions of this article shall be guilty of an offense and, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation. In addition to the above-provided penalty and punishment for violations of this article, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this article.

ARTICLE II  
**Notification of Defects**  
**[Adopted 6-15-1983 by L.L. No. 1-1983]**

**§ 240-7. Written notice of defect required.**

No civil action shall be maintained against the Town of Henrietta or its Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless 48 hours' written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge or culvert was actually given to the Town Clerk or Town Superintendent of Highways and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of, but no such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge or culvert, unless 48 hours' written notice thereof, specifying the particular place, was actually given to the Town Clerk or Town Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

**§ 240-8. Notices to be transmitted to Clerk and presented to Board.**

The Town Superintendent of Highways shall transmit in writing to the Town Clerk, within five days after the receipt thereof, all written notices received by him pursuant to this article and Subdivision 2 of § 65-a of the Town Law. The Town Clerk shall cause all written notices received by him or her pursuant to this article and Subdivision 2 of § 65-a of the Town Law to be presented to the Town Board within five days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner.

**§ 240-9. Indexed record to be maintained. <sup>2</sup>**

All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.

**§ 240-10. Supersession of statute.**

This article shall supersede in their application to the Town of Henrietta Subdivisions 1 and 3 of § 65-a of the Town Law.

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2. Editor's Note: Adoption pending.

## ARTICLE III

**Obstructions****[Adopted 10-5-2011 by L.L. No. 2-2011]****§ 240-11. Obstruction of rights-of-way prohibited.**

It shall be unlawful for any person or entity to place or caused to be placed any obstruction in any highway, roadway, sidewalk, pathway or right-of-way which is publicly owned or maintained or open to the public. Obstructions, within the meaning of this article, shall include all obstructions set forth in New York State Highway Law § 103-a and, additionally, shall be deemed to include any sporting equipment such as basketball apparatus, goal posts, goals and any similar type equipment.

**§ 240-12. Removal.**

The Town Superintendent of Highways shall have the same authority to order the removal of obstructions within the Town of Henrietta as is granted to the County Superintendent pursuant to New York State Highway Law § 103-a. Such removal shall be accomplished in accordance with the procedures set forth in New York State Highway Law § 103-a.

**§ 240-13. Penalties for offenses; enforcement.**

In addition to the power to remove obstructions and order removal, any person or entity violating this article shall be subject to the same penalties set forth in § 240-6 of this chapter. An appearance ticket for such violation may be issued by any police officer or Town official authorized by Chapter 25 of the Henrietta Town Code to issue same.

**§ 240-14. Storage and disposal.**

After removal of any obstruction as provided in this article, the Town Superintendent of Highways or his authorized agent may store such obstruction at a suitable place at the expense of the owner. Such owner or person in charge of the obstruction may redeem the same upon payment to the Town Superintendent of Highways or his authorized agent of the amount of all expenses reasonably incurred in effecting such removal and storing said item. Alternatively, the Town Superintendent of Highways may treat said property as being abandoned and dispose of it accordingly.

## ARTICLE IV

**Deposits of Snow and Ice****[Adoption pending]****§ 240-15. Deposit on public way prohibited.**

- A. It shall be unlawful for any person to use or cause to be used a public street, right-of-way or any sidewalk for the deposit, piling, or placement of plowed or shoveled snow or ice.

§ 240-15

HENRIETTA CODE

§ 240-16

- B. Notwithstanding these provisions contained herein, nothing shall prohibit any person from utilizing the streets, sidewalks or rights-of-way of the Town of Henrietta for temporary deposit, piling, or placement of snow or ice in connection with removal activities actually under way.

**§ 240-16. Penalties for offenses.**

Any person, firm or corporation who or which violates the provisions of this article shall be guilty of an offense and, upon conviction thereof, shall be fined in an amount not to exceed \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation.

## Chapter 245

### SUBDIVISION OF LAND

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| <p>§ 245-1. Purpose.</p> <p>§ 245-2. Definitions.</p> <p>§ 245-3. Application procedures.</p> <p>§ 245-4. Nonresidential subdivision.</p> <p>§ 245-5. Subdivision of residential land.</p> | <p>§ 245-6. Preliminary plats.</p> <p>§ 245-7. Final plats.</p> <p>§ 245-8. Fees.</p> <p>§ 245-9. Penalties for offenses.</p> |
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**[HISTORY: Adopted by the Town Board of the Town of Henrietta 8-18-1982. Amendments noted where applicable.]**

#### GENERAL REFERENCES

<p>Building and development — See Ch. 48.</p> <p>Drainage — See Ch. 84.</p> <p>Environmental quality review — See Ch. 103.</p> <p>Flood damage prevention — See Ch. 125.</p>	<p>Landscaping for new subdivisions — See Ch. 261, § 261-11.</p> <p>Sewers — See Ch. 219.</p> <p>Water — See Ch. 285.</p> <p>Zoning — See Ch. 295.</p>
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#### § 245-1. Purpose.

By a resolution of the Town Board on the first day of April 1953, pursuant to the provisions of § 276 of the Town Law, the Planning Board of the Town of Henrietta has power and authority to approve plats for subdivisions within the Town of Henrietta. The Planning Board prescribes the following regulations as a basis for such approval governing subdivisions.

#### § 245-2. Definitions.

- A. In this chapter, when not inconsistent with the context:
- (1) Words in the present tense include the future tense.
  - (2) The singular includes the plural, and the plural includes the singular.
  - (3) The male gender includes the female gender.
  - (4) The verb "shall" is mandatory.
  - (5) The verb "may" is permissive.
- B. For the purpose of this chapter, certain words and terms used herein are defined as follows:
- ACCESS ROAD** — A right-of-way not publicly dedicated which provides access to one or more building sites. The maintenance shall be the responsibility of the owner.
- BOARD** — The Planning Board of the Town of Henrietta.

**CONDITIONAL APPROVAL OF A FINAL PLAT** — The approval of such plat subject to the stipulations set forth in the resolution. With such approval, a final plat is not qualified for recording in the office of the Monroe County Clerk prior to the signing of the plat by the duly authorized officer of the Board, nor may the issuance of building permits be authorized until evidence of filing is provided.

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

**FINAL PLAT** — A drawing, in final form, prepared in accordance with these regulations, containing all information and detail required by law and incorporating any stipulations of the Board.

**LETTER OF CREDIT** — An instrument issued by a bank authorizing the Town to make drafts up to a specified amount upon the issuer.

**LOT, PARCEL, PLOT or SITE** — Land identified by a legal description and/or tax account number which is filed or proposed to be filed in the County Clerk's office or a parcel that is designated by lease lines.

**PREAPPLICATION CONFERENCE, SKETCH PLAN** — An informal meeting between the Board and a subdivider to reach general agreement as to the form of the proposed layout of the subdivision prior to engaging professional engineering services. No formal vote will be taken on the proposed project. If, however, a majority of the members of the Board indicate that they are favorably inclined towards the project, the subdivider shall not take this as an indication that either preliminary or final approval will ultimately be given.

**PRELIMINARY PLAT** — A drawing, dated and clearly marked "preliminary plat," showing the layout of a proposed subdivision prepared according to these regulations and the design criteria of the Town of Henrietta.

**RESUBDIVISION** — A change in a map of an approved or filed subdivision plan if such change affects any street layout or area reserved for public use or any change of lot line. If the proposed resubdivision consists solely of the simple alteration of lot lines, then normal subdivision procedures may be waived at the discretion of the Board.

**STREET** — A way, formally dedicated to public use, from which the principal means of access to abutting property is obtained.

- (1) **COLLECTOR STREET** — A street collecting traffic from other streets and/or serving as the most direct route to a major street, including the principal entrance to a subdivision.
- (2) **MAJOR STREET** — A way designed as a primary or secondary thoroughfare on any official major street plan of the Town of Henrietta.
- (3) **PRINCIPAL STREET** — A primary or secondary thoroughfare serving as a direct route to adjacent streets.

**SUBDIVIDER** — Any person, firm, corporation, partnership or association who or which proposes to subdivide the land.

**SUBDIVISION** — The division of any parcel of land situate within the Town of Henrietta into three or more parcels, lots or sites, with or without streets or highways, described by metes and bounds or by reference to a map with numbered lots or survey of the property or by any other methods of description for the purpose of sale, lease, license or any other reason. The term includes resubdivision and shall relate to the process of subdividing or to the land subdivided.

**§ 245-3. Application procedures.**

- A. Whenever any subdivision of land is proposed to be made and before any contract for the sale of or any offer to sell such subdivision or any part thereof is made by lot numbers and before any permit for the erection of a structure shall be granted, the subdivider or owner thereof or agent shall apply in writing to the Board for approval of such subdivision. The application of the subdivider, owner or agent to the Board shall conform to the specifications in §§ 245-4, 245-5 and 245-6 of these regulations. Due to the detailed nature of the information required for the consideration of a preliminary plat, a preapplication conference procedure is available to the subdivider where he is given opportunity to discuss his project with the Board in order to determine its requirements before engaging technical help. (This is a practical necessity where the project is a large one or where the developer is unfamiliar with such regulations.)
- B. The preliminary plat, topographic map, street profiles and formal subdivision plat and all procedures relating thereto shall in all respects be in full compliance with the provisions of §§ 276, 277 and 278 of the Town Law of the State of New York and these regulations except where variation may be specifically authorized by the Board.
- C. A number of copies, as required by the Secretary of the Board, of the preliminary plat, as described in § 245-5, designated as such at the scale of not more than 100 feet to the inch, topographic map at the same scale and proposed street profiles at appropriate scales shall be filed with the Board. The Board shall then study the preliminary layout and proposed street profiles in connection with the topography of the area, the existing requirements of Chapter 295, Zoning, if any, the Comprehensive Land Use Plan, Chapter 125, Flood Damage Prevention, Chapter 103, Environmental Quality Review, and the Official Map, if any, and shall take into consideration the general requirements of the community and the best use of the land to be subdivided. Particular attention shall be given to matters enumerated in § 277 of the Town Law as well as to specific requirements for parks, playgrounds, school sites, boulevards and main thoroughfares, the adequacy of street connections and the suitability of the land for the type of development permitted within the zoning district as well as the impact on adjoining lands. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- D. The Planning Board shall follow the procedures of Town Law § 276, Subdivision 5, to approve, approve with conditions or disapprove the preliminary plat. **[Amended 6-20-2001 by L.L. No. 3-2001]**

- E. Within six months of the approval of the preliminary plat, the applicant must submit the plat in final form. If such plat is not so submitted, approval of the preliminary plat may be revoked by the Board. The final plat drawings shall be submitted on tracing cloth sheets at scales as required by the Board and the Director of Engineering and Planning. If the subdivision cannot be shown on one sheet, an additional drawing shall be submitted at an appropriate scale showing the entire subdivision.
- (1) The Planning Board shall follow the procedures of Town Law § 276, Subdivision 6, to approve, approve with conditions or disapprove the final plat. **[Amended 6-20-2001 by L.L. No. 3-2001]**
  - (2) The approval time may be extended by mutual consent of the applicant and the Board. In the event that the Board does not take action within the time limits mentioned above, the plat shall be deemed approved. Prior to granting conditional or final approval of a plat, the Board may permit the plat to be subdivided into two or more sections and may state such requirements as it deems necessary to ensure that the orderly development of the plat is completed before such sections may be signed by the duly authorized Board officer. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plat. Such approval shall, however, not be deemed final until the subdivider has complied with the following subsection.
- F. The subdivider will be required to complete, in accordance with the Board's decision, to the satisfaction of the Director of Engineering and Planning, all the improvements specified in § 277 of the Town Law and not specifically waived by the Board or, alternately, to file with the Town Board a letter of credit or other security complying with such § 277 of the Town Law satisfactory to the Town Board as to form, sufficiency and manner of execution and surety for the completion of such improvements as are not constructed and approved by the Director of Engineering and Planning prior to the approval of the plat. The Board will require a certificate from the Director of Engineering and Planning or other duly designated official as to the satisfactory character of improvements completed and from the Town Attorney or other designated legal advisor as to the adequacy of the security which may be proffered. The subdivider will be required to tend offers of cession in a form certified as satisfactory by the Town Attorney of all land included in streets, highways or parks, not specifically reserved by him, but approval of the plat by the Board does not constitute an acceptance by the Town of the dedication of any street, highway, park or other public open space.
- G. The signature of the duly authorized officer of the Board constituting final approval by the Board of a plat showing lots, blocks or sites, with or without streets or highways, or the approval by such Board of the development of a plat or plats already filed in the office of the County Clerk or register of the county in which such plat or plats are located, if such plats are entirely or partially undeveloped, or the certificate of the Town as to the date of the submission of the final plat and the failure of the Board to take action thereon within the time prescribed shall expire within 62 days from the date of such approval or from the date such certificate is issued, unless within such sixty-two-day period such plat or a section thereof shall have been duly filed or recorded



by the owner in the office of the Monroe County Clerk. [Amended 6-20-2001 by L.L. No. 3-2001]

**§ 245-4. Nonresidential subdivision.**

The subdivider shall observe the following general requirements and principles of nonresidential subdivision of land:

- A. Subdivisions shall be in conformance with all local ordinances, except as provided for elsewhere by the Town Law or this regulation, and shall be properly related to the Town of Henrietta Comprehensive Land Use Plan, if any, as it is being used for guidance by the Board, either with or without formal implementation. Natural and historic features should be preserved. Insofar as possible, all existing features of the landscape, such as large trees, unusual glacial formations, watercourses and floodcourses, historic sites and other such irreplaceable assets, shall be preserved.
- B. Street design in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions or for their proper projection when adjoining property is not subdivided. Street right-of-way width, deflections, curvature and layout shall be subject to approval by the Director of Engineering and Planning and the Board.
- C. All new streets shall be constructed to the Town pavement specifications in force at the time of application for nonresidential streets.<sup>1</sup>
- D. Each block shall be planned to provide two rows of lots. Other lot arrangements may be accepted by the Board if such arrangements do not hinder future maintenance or other developments.
- E. Side lines of lots, insofar as practical, shall be perpendicular to the street on a tangent section or on a radial to a curved section.
- F. All lots shall be of sufficient size to accommodate anticipated buildings in accordance with zoning setback requirements.
- G. Vertical alignment (grades) of streets shall conform in general to the existing terrain, but consideration will be given to minimum and maximum grades for drainage, safety, traffic and other factors.
- H. Fire lanes of adequate width and off-street parking/loading areas shall be provided on all lots.
- I. Lots shall be arranged and graded so that drainage areas will remain along lot lines or in open areas.
- J. All development planned for flood-prone areas, as determined by flood maps and local experience, shall comply with all applicable Town requirements.<sup>2</sup>

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1. Editor's Note: Current pavement specifications are on file at the office of the Director of Engineering and Planning.

2. Editor's Note: See Ch. 125, Flood Damage Prevention.

- K. In the case of a subdivision into larger parcels or sections or larger than ordinary building lots, such parcels shall be arranged so as to allow for future streets and logical future subdivision.
- L. On subdivision fronting existing streets, access roads may be required to limit access onto the existing street to one or more points. The lot depth may be increased to include this additional area.
- M. All utilities installed in commercial/industrial subdivisions shall be placed underground.
- N. The Board may require the installation of sidewalks, open areas, parking areas, drainage/flooding areas, buffer zones for noise or visual control, street trees, lot trees, streetlighting or other improvements to assure safe, orderly and sound development which will not adversely affect existing or future neighboring developments.
- O. Variations of the general requirements above outlined may be established by the Board when, in its judgment, special factors warrant such variation.

#### **§ 245-5. Subdivision of residential land.**

The subdivider shall observe the following general requirements and principles of residential subdivision of land:

- A. Subdivisions shall be in conformance with all local ordinances, except as provided for elsewhere by the Town Law or this regulation, and shall be properly related to the Town of Henrietta Comprehensive Land Use Plan, if any, as it is being used for guidance by the Board, either with or without formal implementation. Natural and historic features should be preserved. Insofar as possible, all existing features of the landscape, such as large trees, unusual glacial formations, watercourses and floodcourses, historic sites and other such irreplaceable assets, shall be preserved.
- B. Street design in the subdivision shall provide for the continuation of the principal streets in adjoining subdivisions or for their proper projection when adjoining property is not subdivided. Street right-of-way width, deflections, curvature and layout shall be subject to approval by the Director of Engineering and Planning and the Board.
- C. All new streets shall be constructed to the Town pavement specifications in force at the time of application for residential streets.<sup>3</sup>
- D. Each block shall be planned to provide two rows of lots. Other lot arrangements may be accepted by the Board if such arrangements do not hinder future maintenance or other developments.
- E. Side lines of lots, insofar as practical, shall be perpendicular to the street on a tangent section or on a radial to a curved section.
- F. All lot sizes shall comply with the current zoning regulations of the Town. If the developer is applying for subdivision approval under Town Law § 278, he must comply

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3. Editor's Note: Current pavement specifications are on file at the office of the Director of Engineering and Planning.

with the provisions of Town Code Chapter 295, Zoning, § 295-59B. **[Amended 6-20-2001 by L.L. No. 3-2001]**

- G. Vertical alignment (grades) of streets shall conform in general to the existing terrain, but consideration will be given to minimum and maximum grades for drainage, safety, traffic and other factors.
- H. All development planned for flood-prone areas, as determined by flood maps and local experience, shall comply with all applicable Town requirements.<sup>4</sup>
- I. In the case of a subdivision of land into sections, the Board shall review and approve the preliminary plat for the entire subdivision before granting any one section final approval.
- J. On subdivision lots fronting existing streets, access roads may be required to limit access onto the existing street to one or more points. The lot depth may be increased to include this additional area.
- K. All utilities installed in residential subdivisions shall be placed underground.
- L. The Board may require the installation of sidewalks, open areas, parking areas, drainage/flooding areas, buffer zones for noise or visual control, street trees, lot trees, streetlighting or other improvements to assure safe, orderly and sound development which will not adversely affect existing or future neighboring developments.
- M. Variations of the general requirements above outlined may be established by the Board when, in its judgment, special factors warrant such variation (i.e., rural estate subdivision). (Note: "Rural estate subdivision" is one in which the Board may waive some requirements of § 245-5C, K and L in exchange for the development of three- to five-acre lots.)

#### **§ 245-6. Preliminary plats.**

The preliminary plat shall be drawn on one or more sheets of tracing material not more than 24 by 36 inches in size and shall be clearly marked "preliminary plat." If more than one sheet is required to show an entire tract at the above scale, an additional plan showing the entire subdivision shall be submitted at an appropriate scale. When the subdivider is someone other than the owner, an affidavit by the owner of the land consenting to the application and proof of ownership shall be submitted. The preliminary plat shall be drawn at a standard scale of not more than 100 feet to one inch and shall include the information listed below:

- A. The name of the proposed subdivision, township, range and great lot number in which it is located.
- B. The name and address of the record owner, subdivider and designer of the preliminary plat.
- C. The location of property lines, existing easements, buildings, structures, watercourses, woodlands, wetlands and other essential features.

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4. Editor's Note: See Ch. 125, Flood Damage Prevention.

- D. North point, graphic scale, date and general location map.
- E. The names of all adjacent subdivisions and the names of owners of adjacent acreage.
- F. The location of any existing sewers, water mains, culverts and drains on the property to be subdivided or on streets which border the property.
- G. The locations, names and widths of existing and proposed streets, highways, easements, building lines, parks and other public open spaces and similar facts regarding adjacent property.
- H. Ground contours for the property and adjacent property at intervals of not more than five feet of elevation.
- I. The proposed source of water supply and the method of sewage disposal, including a conceptual layout of each system, whether necessary districts are formed or in process and the lines, dimensions and purpose of all utility easements, including properly placed fire hydrants. If on-site sanitary systems are to be used, percolation tests data shall be provided.
- J. The proposed facilities for collecting, retaining, detaining and discharging surface water drainage, including preliminary design of any bridges or culverts which may be required and the layout and sizes of the storm sewer system. A separate report shall be submitted, including calculations for runoff and pipe and channel sizing, which will clearly indicate the basis of design and the intended method of all stormwater disposal and flood hazard prevention and how all runoff will be handled during grading and development operations and erosion and sedimentation prevention measures. The design of stormwater retention and other facilities shall follow the criteria set forth in Chapter 84, Drainage, and Chapter A300, Design Standards for Storm Drainage, of the Town Code.
- K. The approximate lines and gradients of proposed streets and sidewalks, the names of proposed streets and a typical section of the roadway pavement.
- L. A soils report outlining all soils and their classification, also listing those areas, if any, with moderate to high susceptibility to erosion. The report shall also describe the existing vegetation.
- M. A proposed preliminary grading plan of the site at a contour interval of not more than two feet, showing locations of cuts and fills.
- N. The approximate lines of proposed lots, the acreage or square footage contained in each lot and individual lot numbering. When appropriate, a typical lot layout with building and on-site sewage system shall be provided.
- O. The approximate locations and dimensions of areas proposed for neighborhood parks, playgrounds or other permanent open space within the subdivision.
- P. The location of any municipal boundary lines, existing special districts and zoning district lines within or near the subdivision.
- Q. Indications of any nonconforming lot and deed restrictions or covenants as may apply to any or all portions of the subdivision.

- R. An environmental assessment form (EAF) shall be provided and, if necessary, an environmental impact statement as required by federal, state or Town law.
- S. An indication of locations of buffer zone areas required either during or after construction and the reason for buffer and/or other proposed vegetation.
- T. The location, size and type of proposed lighting and anticipated signs, if any.
- U. The location and outline of all floodplains, floodways, woodlands, wetlands and other environmentally sensitive areas.
- V. A deed description and map of survey of tract boundary made and certified by a New York State licensed land surveyor.
- W. Where it is impossible to include any public facilities within the public area so laid out, the preliminary plat shall show the boundaries of proposed permanent easements, which shall provide satisfactory access.
- X. Where the preliminary plat submitted covers only a portion of the entire holding, a sketch of the prospective future street system of the unsubmitted portion shall be furnished for review by the Board in connection with the submitted portion.
- Y. Where the subdivision is near to a noise source such as an expressway, industrial area, etc., a noise study shall be submitted, providing the necessary ambient noise readings and contours, in the order to determine mitigating measures to protect the subdivision from excess noise levels.

#### **§ 245-7. Final plats.**

The final subdivision plat shall be drawn in ink on linen or material equally acceptable for filing with the Monroe County Clerk and shall give sufficient survey data to readily determine the location, bearing and length of all lines shown thereon to permit the reproduction of such lines upon the ground. The subdivision final plat shall be composed of three parts, namely construction sheet, record sheet and drainage report, as described in the subsections that follow.

- A. Final plat construction sheet. These drawings shall be one or more sheets of tracing material, not more than 24 by 36 inches in size, and shall be drawn at a scale of 50 feet to one inch. Where more than one sheet is required to show the entire development, a key sheet shall be provided showing the entire project. All data shown on the construction sheets shall be in accordance with the requirements of the Director of Engineering and Planning and the construction specifications which are available at the Town Hall. The data shall include but shall not be limited to the following information:
  - (1) Subsections A through E of § 245-6, the preliminary plat.
  - (2) The lines of existing and proposed streets and sidewalks immediately adjoining and within the subdivision.
  - (3) The names of existing and proposed streets.

- (4) Typical cross sections of proposed streets.
  - (5) Profiles of proposed streets at suitable vertical scale showing finished grades in relation to existing ground elevation.
  - (6) The layout of proposed lots, including lot numbers.
  - (7) The location and size of any existing and proposed sewers (stormwater or sanitary), water mains and pipes on the property or into which any connection is proposed.
  - (8) Provisions for water supply and sewage disposal and evidence that such provisions have received approval of the Monroe County Department of Health.
  - (9) Locations of survey monuments. Before acceptance of the dedication of the highways, a certificate by a licensed land surveyor must be filed certifying that the above monuments have been placed where indicated on the map.
  - (10) Plan and typical cross section of proposed sidewalks where required.
  - (11) Development plan, including landscaping, for any proposed neighborhood park or playground within the subdivision.
  - (12) A planting plan for street trees, where required, indicating the location, varieties and minimum size of trees to be planted and of existing trees to be preserved as street trees.
  - (13) Brief specifications or reference to Town standards for all required facilities to be constructed or installed within the subdivision.
  - (14) Certification by a licensed professional engineer and/or licensed landscape architect and a licensed land surveyor as evidence of professional responsibility for the preparation of the construction sheet.
- B. Final plat record sheet. The record sheet shall be of a size acceptable by the Monroe County Clerk and drawn to a scale of 50 feet to one inch. Where more than one sheet is required to show the entire development, an index map to scale showing all sections shall be provided. The data shown shall include but shall not be limited to the following information:
- (1) Subsections A through D of § 245-6, the preliminary plat.
  - (2) The boundaries of the subdivision, a legal description of the entire parcel of property and information to show the location of the subdivision in relation to surrounding property and streets, including names of owners of adjacent land or names of adjacent subdivisions. In whatever manner that is practical, the subdivision boundary shall be referenced from two directions to establish United States Coast and Geodetic Survey monuments or New York State Plane Coordinate monuments. In the event that such monuments have been obliterated, the subdivision boundary shall be referenced to the nearest highway intersections or previously established monuments of subdivisions or public lands. Any combination of types of reference points may be accepted which would fulfill the

requirement of exact measurements from the subdivision boundary to reference points previously established for or by a public agency.

- (3) The lines of existing and proposed streets and sidewalks within the subdivision and their names and the lines of existing or proposed streets and sidewalks on adjoining properties.
  - (4) The lines and dimensions of proposed lots, which shall be numbered. If a proposed lot contains one or more existing buildings, the yard dimensions for such buildings shall be indicated. Existing buildings outside the limits of the plat, but within 75 feet of any proposed street or 25 feet of any proposed lot line, shall also be shown.
  - (5) The lines and purposes of existing and proposed easements immediately adjoining and within the subdivision.
  - (6) The lines, dimensions and areas in square feet of all property that is proposed to be reserved by deed restriction or covenant for the common use of the property owners of the subdivision or for any other reason.
  - (7) The location of monuments to be placed within the subdivision.
  - (8) The locations of existing and proposed water supply lines, storm sewers and sanitary sewers within the subdivision.
  - (9) The locations of any municipal and zoning boundary lines within the subdivision.
  - (10) Written statements as to:
    - (a) The zoning of the subdivision property.
    - (b) Compliance of the proposed lots with zoning requirements. If any lots do not comply but are covered by zoning variances, the statement should include reference to such variance or, if variances are needed, such should be stated along with the nature of the variance(s) and locations.
  - (11) Seal and certification by a licensed professional engineer or a licensed land surveyor as evidence of professional responsibility for the preparation of the record sheet and a place for the liber and page where filed.
  - (12) Offers of dedication to the Town of any open space, recreation, road or other improvement and the facilities to be retained by the subdivider, including the method of maintenance and improvement thereof. Such offers shall be received and approved by the Town Attorney as to their legal sufficiency.
- C. Filing requirements. To facilitate the filing of the subdivision or resubdivision maps with the County of Monroe, the following are required:
- (1) If there are any new streets, the form "Application for Approval of Plat" shall be submitted.
  - (2) A tax search shall be made as required by the Monroe County Treasurer's Office.
  - (3) The required number of prints of the map as specified by the county.

- (4) The filing fee, payable to the Monroe County Clerk.
  - (5) A statement that all other necessary county departments have been contacted.
- D. Final plat drainage report. When requested by the Director of Engineering and Planning, this report shall expand upon the report submitted at the preliminary plan stage and shall present plans and supporting data for stormwater control drainage provisions within the subdivision, including:
- (1) Plan, profiles and typical and special cross sections of proposed stormwater drainage facilities.
  - (2) Supporting final design data and copies of computations used as a basis for the design capacities and performance of the drainage facilities.
  - (3) Subdivision grading plan development to suitable contour interval with grading details to indicate proposed street grades and building site grades and elevation through the subdivision. The contour interval of the grading plan shall be one, two or five feet (vertical), the selection to be determined by the Director of Engineering and Planning.
  - (4) Erosion report, if required.
  - (5) If the subdivision is within or adjacent to the one-hundred-year-frequency floodplain of any body of water, a detailed analysis of the area with respect to a floodplain management land use will be included in the subdivision plat drainage report.

**§ 245-8. Fees.**

- A. Before the issuance of any building permits, the subdivider shall pay to the Town of Henrietta a fee for each lot shown on the subdivision plat. Said fee shall be applied on and shall cover the cost of the following items: **[Amended 6-20-2001 by L.L. No. 3-2001]**
- (1) Construction water used for all initial construction of residences and public improvements in the subdivision prior to installation of water meters.
  - (2) Cost of normal inspection by Town employees or Town officials of:
    - (a) All sanitary sewers, pumps, manholes and other public sewage facilities required to serve the subdivision.
    - (b) Public waterlines, hydrants and other public water facilities within the subdivision.
    - (c) All storm sewers and public drainage facilities required to serve said subdivision.
    - (d) All street improvements, sidewalks and street drains to be constructed within the subdivision.



## B. Said fee shall not cover the following:

- (1) Cost of inspection of water, sewer or drainage facilities not of a public nature, such as water and sewer services and drains on private property, or the connection thereof to public facilities.
- (2) Cost of inspections of buildings by the Fire Marshal/Building Inspector. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- (3) Fees of consulting engineers or other special inspection charges incurred by the Town of Henrietta or any improvement district thereof in connection with the installation of any public improvement required by the Planning Board or by the Town Board.
- (4) Any other cost properly payable by the subdivider under the terms of any performance bond, agreement or order of the Town Board or Planning Board, unless such cost is specifically set forth and described in Subsection A above.

## C. In addition to said fee per lot, the subdivider shall also pay to the Supervisor any and all inspection fees for sanitary sewers, laterals, storm sewer connections and water services required to be paid by any ordinance or regulation of the Town of Henrietta and all entrance fees payable for the right to connect to any district in said Town.

## D. The Supervisor shall allocate all such fees to the improvement district or department of the Town of Henrietta which renders the services or furnishes the materials for which said fees are payable, in proportion to the value of the service rendered or materials furnished by such district or department, as determined by the Town Board, and any surplus shall be retained by its general Town fund and as reimbursement for the general administration costs incurred in the regulation of subdivisions and in connection with improvement districts.

E. Until the subdivider has filed with the Fire Marshal/Building Inspector proof of filing of the approved plat in the Monroe County Clerk's office and until payment of the fees herein provided for, no building permit for the construction of any structure in such subdivision shall be issued. **[Amended 2-15-2006 by L.L. No. 1-2006]****§ 245-9. Penalties for offenses. <sup>5</sup>**

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be

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5. Editor's Note: Adoption pending.

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deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

## **Chapter 250**

### **TAXATION**

#### **ARTICLE I Exemption for Senior Citizens**

- § 250-1. Exemption granted.**
- § 250-2. Requirements.**
- § 250-3. Application for exemption; renewal.**
- § 250-4. Penalties for offenses.**
- § 250-5. Applicability.**

#### **ARTICLE II Partial Exemption for the River Road Turnkey Project at Westminster Place**

- § 250-6. Exemption granted.**
- § 250-7. When effective; payment in lieu of property taxes.**
- § 250-8. Extension of exemption.**
- § 250-9. Authority to enter into agreement.**
- § 250-10. Additional terms and conditions of agreement.**

#### **ARTICLE III Exemption for ADA Compliance Improvements**

- § 250-11. Exemption granted.**
- § 250-12. Limitations.**
- § 250-13. Application for exemption.**
- § 250-14. Approval of application; applicability.**
- § 250-15. Schedule of exemptions.**

#### **ARTICLE IV Alternative Veterans Exemption**

- § 250-16. Exemption granted.**

#### **ARTICLE V Persons with Disabilities Exemption**

- § 250-17. Exemption granted.**
- § 250-18. Limitations; schedule of exemptions.**
- § 250-18.1. Application for exemption; renewal.**

#### **ARTICLE VI Exemption for Improvements to Residential Buildings**

- § 250-19. Exemption granted.**
- § 250-20. Eligibility requirements.**
- § 250-21. Exemption schedule.**
- § 250-22. Termination of exemption.**
- § 250-23. When effective.**

#### **ARTICLE VII Veterans' Eligible Funds Adjustment**

- § 250-24. Title.**
- § 250-25. Purpose and intent.**
- § 250-26. Change in assessment.**
- § 250-27. Increase or decrease in amount of exemption.**
- § 250-28. Owner application for eligible funds veterans' exemption.**

#### **ARTICLE VIII Cold War Veterans Exemption**

- § 250-29. Legislative authority; exemption granted; application.**

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

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ARTICLE I  
**Exemption for Senior Citizens**  
**[Adopted 8-3-1966]**

**§ 250-1. Exemption granted.** [Amended 10-19-1983; 12-3-1986; 11-1-1989 by L.L. No. 1-1989; 2-7-1990 by L.L. No. 1-1990; 1-6-1991 by L.L. No. 4-1991; 2-15-1995 by L.L. No. 1-1995; 11-15-1995 by L.L. No. 3-1995; 11-6-1996 by L.L. No. 1-1996; 2-17-1999 by L.L. No. 2-1999; 12-20-2000 by L.L. No. 7-2000; 12-4-2002 by L.L. No. 6-2002; 12-17-2003 by L.L. No. 3-2003; 1-17-2007 by L.L. No. 5-2006]

Pursuant to the authority granted by § 467 of the Real Property Tax Law, real property in the Town of Henrietta, County of Monroe, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, one of whom is 65 years of age or over, or any person otherwise qualifying under this article shall not be denied the exemption under this article if such person becomes 65 years of age after the appropriate taxable status date and on or before December 31 of the same year, with income or combined incomes of less than \$34,400 shall be exempt from taxation by the Town of Henrietta to the extent provided in the following schedule:

<b>*2007 Annual Income</b>	<b>Percentage Assessed Valuation Exemption From Taxation</b>
\$25,999 or less	50%
\$26,000 to \$26,999	45%
\$27,000 to \$27,999	40%
\$28,000 to \$28,999	35%
\$29,000 to \$29,899	30%
\$29,900 to \$30,799	25%
\$30,800 to \$31,699	20%
\$31,700 to \$32,599	15%
\$32,600 to \$33,499	10%
\$33,500 to \$34,399	5%
\$34,400 or more	None

**§ 250-2. Requirements.**

No exemption shall be granted:

- A. If the income of the owner or the combined income of the owners of the property exceeds the sum of \$34,399.99 for the 12 consecutive months immediately preceding the date of making application for exemption for the 2007 assessment roll. \*This amount shall automatically increase by \$1,000 per year for each of the subsequent three years,

accordingly affecting the above schedule. Where title is vested in either the husband or the wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, rental income, salary or earnings and income from self-employment but shall not include gifts or inheritances.

[Amended 9-16-1970; 9-20-1972; 9-4-1974; 6-15-1977; 6-20-1979; 1-7-1981; 9-15-1982; 10-19-1983; 12-3-1986; 1-6-1991 by L.L. No. 4-1991; 2-15-1995 by L.L. No. 1-1995; 11-15-1995 by L.L. No. 3-1995; 11-6-1996 by L.L. No. 1-1996; 2-17-1999 by L.L. No. 2-1999; 12-20-2000 by L.L. No. 7-2000; 12-4-2002 by L.L. No. 6-2002; 12-17-2003 by L.L. No. 3-2003; 1-17-2007 by L.L. No. 5-2006]

- B. Unless the title of the property shall have been vested in the owner or all of the owners of the property for at least 24 consecutive months prior to the date of making application for exemption. [Amended 9-4-1974]
- C. Unless the property is used exclusively for residential purposes.
- D. Unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property.

#### **§ 250-3. Application for exemption; renewal.**

- A. Application for such exemption must be made by the owner or all of the owners of the property on forms to be furnished by the Town Assessor's office, shall furnish the information and be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's office at least 90 days before the date for filing the final assessment roll.
- B. Renewal applications for the senior citizen's tax exemption may be filed with the Town Assessor on or before the third Tuesday in May each year. [Added 11-1-1989 by L.L. No. 1-1989]

#### **§ 250-4. Penalties for offenses.**

Any conviction of having made any willfully false statement in the application for such exemption shall be punishable by a fine of not more than \$100 and shall disqualify the applicant or applicants from further exemption for a period of five years.

#### **§ 250-5. Applicability.**

Such exemption shall be applicable for the assessment roll to be prepared in 1967, and subsequent rolls, provided that any eligible person may apply for the exemption after the effective date of this article.

## ARTICLE II

**Partial Exemption for the River Road Turnkey Project at Westminster Place  
[Adopted 3-1-1995 as L.L. No. 2-1995]****§ 250-6. Exemption granted.**

The Town Board, pursuant to § 1106-h of the New York State Private Housing Finance Law, hereby exempts from property taxes, for a period of 20 years, the River Road Turnkey Project at Westminster Place, L.P., consisting of a parcel of land located at 3883 East River Road.

**§ 250-7. When effective; payment in lieu of property taxes.**

Such exemption shall take effect upon the completion of the construction of the project and the transfer of the ownership of the project from the River Road Development Fund Corporation. In lieu of payment of property taxes, Westminster Place, L.P., shall make annual payments to the Town of Henrietta equal to 20% of its annual shelter rents. Shelter rents shall equal gross rents less common utility costs.

**§ 250-8. Extension of exemption.**

On or before the expiration of the exemption period, Westminster Place, L.P., may apply for an additional exemption period of not more than 20 years, subject to approval of the Town Board of both the exemption and a payment-in-lieu schedule described herein.

**§ 250-9. Authority to enter into agreement.**

The Supervisor is hereby authorized to enter into an agreement with Westminster Place, L.P., to implement the tax exemption and the payment-in-lieu schedule described herein.

**§ 250-10. Additional terms and conditions of agreement.**

The agreement shall contain such additional terms and conditions as the Supervisor deems to be appropriate.

## ARTICLE III

**Exemption for ADA Compliance Improvements  
[Adopted 11-15-1995 as L.L. No. 4-1995]****§ 250-11. Exemption granted. [Amended 6-20-2001 by L.L. No. 3-2001]**

Pursuant to the authority granted by § 459-a of the Real Property Tax Law, real property in the Town of Henrietta, County of Monroe, which is altered, installed or improved subsequent to the Americans with Disabilities Act of 1990 (P.L. 101-336) for the purposes of removal of architectural barriers for the disabled in existing property shall be exempt from taxation after adoption of these provisions and filing with the State Board of Real Property Services and the Assessor.

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**§ 250-12. Limitations.**

- A. The exemption shall be applicable only to those improvements which would otherwise result in an increase in the assessed valuation of the real property but which consist of an addition or remodeling to an existing building's structure to provide disability improvements pursuant to the Americans with Disabilities Act of 1990.
- B. No exemption shall be granted for alterations, installations or improvements unless:
  - (1) Such alterations, installations or improvements were commenced subsequent to the effective date of this article but adopted pursuant to § 250-11 of this article.
  - (2) Such alterations, installations or improvements may be subject to the exemption schedule of this article beginning from the date of such alterations, installments or improvements pursuant to the Americans with Disabilities Act of 1990 for existing buildings and shall not be eligible for refunds of property taxes or special ad valorem levies due to the exemption prior to the effective date of this article.

**§ 250-13. Application for exemption. [Amended 6-20-2001 by L.L. No. 3-2001]**

Such exemption shall be granted only upon application by the owner or all the owners of such building on a form prescribed by the State Board of Real Property Services. The application shall be filed with the Assessor on or before the appropriate taxable status date for the Town of Henrietta.

**§ 250-14. Approval of application; applicability.**

- A. If satisfied that the applicant is entitled to an exemption pursuant to this section, the Assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in Subsection B of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.
- B. Such exemption shall be applicable for the assessment roll to be prepared in 1996, and subsequent rolls, provided that any eligible person may apply for the exemption after the effective date of this article.

**§ 250-15. Schedule of exemptions.**

Such real property shall be exempt pursuant to the following exemption schedule:

<b>Year of Exemption</b>	<b>Percentage of Exemption</b>
1	50
2	45
3	40

<b>Year of Exemption</b>	<b>Percentage of Exemption</b>
4	35
5	30
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## ARTICLE IV

**Alternative Veterans Exemption**

**[Adopted 2-5-1997 by L.L. No. 1-1997; amended in its entirety 12-7-2005 by L.L. No. 3-2005]**

**§ 250-16. Exemption granted.**

- A. Pursuant to the authority granted by § 458-a of the Real Property Tax Law, real property in the Town of Henrietta owned by one or more persons who qualify as "veterans," as defined in said section, shall be exempt from taxation by the Town of Henrietta to the extent authorized therein, subject to the following maximum exemptions, which are cumulative when applicable:
- (1) Wartime service: \$36,000.
  - (2) Combat service: \$24,000.
  - (3) Service-connected disability: \$120,000.
- B. Such exemption shall be granted only upon application by the owner(s) of such real property on a form prescribed by the State Board of Real Property Services. The application shall be filed with the Assessor on or before the first appropriate taxable status date for the Town of Henrietta.
- C. Pursuant to Chapter 326 of the Laws of 2000, the Town of Henrietta hereby authorizes the inclusion of a Gold Star Parent within the definition of "qualified owner" and property owned by a Gold Star Parent within the definition of "qualifying residential real property," under said section. **[Amended 9-6-2006 by L.L. No. 4-2006]**

## ARTICLE V

**Persons with Disabilities Exemption**

**[Adopted 2-17-1999 by L.L. No. 1-1999]**

**§ 250-17. Exemption granted. [Amended 12-4-2002 by L.L. No. 5-2002; 12-17-2003 by L.L. No. 2-2003]**

Pursuant to the authority granted by § 459-c of the Real Property Tax Law, real property in the Town of Henrietta owned by one or more persons with disabilities, or real property owned



by a husband and wife, or both, or by siblings, at least one of whom has a disability, and whose income, as hereafter defined, is limited by reason of such disability shall be exempt from taxation by the Town of Henrietta to the extent of 50% of the assessed valuation thereof.

**§ 250-18. Limitations; schedule of exemptions. [Amended 2-16-2000 by L.L. No. 2-2000; 12-20-2000 by L.L. No. 6-2000; 12-4-2002 by L.L. No. 5-2002; 12-17-2003 by L.L. No. 2-2003; 1-17-2007 by L.L. No. 1-2007]**

No exemption shall be granted if the income of the owner, or the combined income of the owners of the property, for the income tax year immediately preceding the date of making application for exemption exceeds the sum of \$34,400, except that if the aforesaid income is more than \$25,999, then such real property shall be exempt to the extent provided in the following schedule. \*This amount shall automatically increase by \$1,000 per year for each of the subsequent three years, accordingly affecting the below schedule.

<b>*2007 Annual Income</b>	<b>Percentage Assessed Valuation Exemption From Taxation</b>
\$25,999 or less	50%
\$26,000 to \$26,999	45%
\$27,000 to \$27,999	40%
\$28,000 to \$28,999	35%
\$29,000 to \$29,899	30%
\$29,900 to \$30,799	25%
\$30,800 to \$31,699	20%
\$31,700 to \$32,599	15%
\$32,600 to \$33,499	10%
\$33,500 to \$34,399	5%
\$34,400 or more	None

**§ 250-18.1. Application for exemption; renewal. [Added 1-17-2007 by L.L. No. 1-2007]**

- A. Such exemption shall be granted only upon application by the owner(s) of such real property on a form prescribed by the State Board of Real Property Services. The application shall be filed with the Assessor on or before the first appropriate taxable status date for the Town of Henrietta.
- B. Renewal applications for the disabled person's tax exemption must be filed with the Town Assessor on or before the 1st day of March each year.

## ARTICLE VI

**Exemption for Improvements to Residential Buildings**  
**[Adopted 11-1-2000 by L.L. No. 5-2000]**

**§ 250-19. Exemption granted.**

Pursuant to the authority granted by § 421-f of the Real Property Tax Law, residential buildings reconstructed, altered or improved in the Town of Henrietta, subsequent to the effective date of this article, shall be partially exempt from taxation by the Town of Henrietta, as hereinafter provided, for any increased value thereof attributable to such reconstruction, alteration or improvement in accordance with the eligibility requirements and exemption schedule as set forth in §§ 250-20 and 250-21 of this article.

**§ 250-20. Eligibility requirements.**

Eligibility for the partial exemption authorized by § 421-f of the Real Property Tax Law and by this article shall meet the following criteria:

- A. Property for which exemption is sought must be a one- or two-family residence and must be located in an R-1 or R-2 Residential District.
- B. The greater portion of the residence (as measured by square footage) after the capital improvement has been made must be at least five years old.
- C. The capital improvement must be commenced after the date this article is enacted.
- D. The initial exemption percentage will be received only after any permit or certification of occupancy, where required, is obtained.
- E. Unless limited by this article, the exemption applies only to reconstruction, alteration or improvements which result in an increase in the assessed value to the subject property.
- F. The increase in assessed value of such reconstruction, alteration or improvement, as determined by the Assessor of the Town of Henrietta, must exceed the sum of \$3,000 and is limited to the sum of \$50,000 in increased assessed valuation.

**§ 250-21. Exemption schedule.**

The increased value of any reconstruction, alteration or improvement qualifying for an exemption pursuant to § 421-f of the Real Property Tax Law and this article shall receive the following exemption percentages for a total of a five-year period:

<b>Year</b>	<b>Exemption Percentage</b>
1	100%
2	80%
3	60%
4	40%
5	20%

**§ 250-22. Termination of exemption.**

The exemption period shall not exceed five years. The exemption is not transferable and shall terminate upon transfer of the property to a new owner. The exemption shall terminate on the date the deed is recorded transferring the property to the new owner. The new owner shall be required to pay the taxes which would have been exempted on a pro rata basis from the date of closing to the end of the Town's taxable year.

**§ 250-23. When effective.**

This article shall take effect upon filing with the Office of the Secretary of State, the Office of Real Property Tax Services and the Assessor of the Town of Henrietta.

## ARTICLE VII

**Veterans' Eligible Funds Adjustment**  
**[Adopted 9-5-2001 by L.L. No. 4-2001]**

**§ 250-24. Title.**

This article shall be known as the "Veterans' Eligible Funds Adjustment Law of the Town of Henrietta."

**§ 250-25. Purpose and intent.**

It is the purpose and intent of this article to implement legislation, S-8472-A, signed into law by the Governor of the State of New York, which amends § 458, Subdivision 5, of the Real Property Tax Law of the State of New York, to direct the Town Assessor to adjust the amount of the eligible funds veterans' exemption based upon reassessment of property within the Town and to permit veterans who had converted from eligible funds veterans' exemption to the alternative veterans' exemption as a result of a revaluation or update to change back to eligible funds veterans' exemption and obtain the benefits of the amended provision of the Real Property Tax Law.

**§ 250-26. Change in assessment.**

The Town Board of the Town of Henrietta hereby recognizes that the total assessed value of the real property for which an exemption has been granted pursuant to Subdivision 1 or 2 of § 458 of the Real Property Tax Law will be increased or decreased as a result of a revaluation or update, and a material change in the level of assessment will be certified for the assessment roll of the Town of Henrietta pursuant to the rules of the New York State Office of Real Property Services.

**§ 250-27. Increase or decrease in amount of exemption.**

The Assessor of the Town of Henrietta is hereby directed to increase or decrease the amount of the eligible funds veterans' exemption by multiplying the amount of the exemption by the

change in the level of assessment for the Town of Henrietta, as determined by and certified by the New York State Office of Real Property Services pursuant to the rules of said office.

**§ 250-28. Owner application for eligible funds veterans' exemption.**

- A. At any time within one year of the effective date of this article, any owner of property who previously received an exemption pursuant to § 458 of the Real Property Tax Law but who opted instead, as a result of a revaluation or update, to receive exemption pursuant to § 458-a of the Real Property Tax Law may apply to the Town Assessor to again receive the exemption under § 458.
- B. The Town Assessor shall recompute all exemptions granted pursuant to § 458 in the manner set forth in § 458, Subdivision 5(b), of the Real Property Tax Law.

ARTICLE VIII

**Cold War Veterans Exemption**

**[Adopted 11-21-2007 by L.L. No. 2-2007]**

**§ 250-29. Legislative authority; exemption granted; application.**

- A. Pursuant to the authority granted by § 458-b of the Real Property Tax Law, real property in the Town of Henrietta which meets the requirements for qualified residential real property, as defined in said section, shall be exempt from taxation by the Town of Henrietta to the extent authorized therein, subject to the following maximum exemption.
- B. Qualified residential real property shall be exempt from taxation by the Town of Henrietta to the extent of 10% of the assessed value of such property; provided however, that such exemption shall not exceed \$8,000. In addition, where a Cold War veteran received compensation from the United States Veterans Affairs or from the United States Department of Defense because of a service-related disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by 50% of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed \$40,000.
- C. Such exemption shall be granted only upon application by the owners of such real property on a form prescribed by the State Board of Real Property Services. The application shall be filed with the Town Assessor on or before the first appropriate taxable status date for the Town of Henrietta.
- D. The Town Board may, from time to time, amend, supplement, change, modify or repeal this article pursuant to the provisions of the Town Law, the General Municipal Law and the Real Property Tax Law of New York State applicable thereto.

## Chapter 257

### TRAILERS

§ 257-1. Definitions.

§ 257-2. Permit required to operate trailer or tourist camp.

§ 257-3. Permit required to store or park trailer; restrictions.

§ 257-4. Movable/Portable storage units.

§ 257-5. Removal of wheels or enclosure of space beneath trailer.

§ 257-6. Penalties for offenses.

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 11-19-1952. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Zoning — See Ch. 295.

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#### § 257-1. Definitions.

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

**HOUSE TRAILER** — Any vehicle used or capable of being used as sleeping or living quarters, mounted on wheels and propelled either by its own power or a power-driven vehicle to which it may be attached, and includes an automobile trailer equipped with living quarters or sleeping facilities and a house car.

**MOVABLE/PORTABLE STORAGE UNITS** — A storage unit that is temporary and is a transportable unit designed and used primarily for temporary storage of building materials (before they are utilized for building purposes), household goods, and other such materials for use on a limited basis on residential property. Sometimes referred to as "PODS" and "roll-offs." <sup>1</sup>

**OFFICE TRAILER** — Any vehicle used or capable of being used as an office or classroom (with or without wheels) and propelled either by its own power or a power-driven vehicle to which it may be attached, and includes but is not limited to construction offices, temporary classrooms and temporary offices. **[Added 4-3-1991]**

**STORAGE TRAILER** — Any vehicle used or capable of being used as storage and propelled either by its own power or a power-driven vehicle to which it may be attached, and includes but is not limited to an automobile trailer, truck trailer or a semi-truck trailer. **[Added 4-3-1991]**

**TOURIST CAMP** — Any lot, piece or parcel of ground whereon are located or placed two or more camp cottages, tent houses, cabins or other buildings, designed for living quarters or sleeping facilities, other than houses and buildings regulated under Chapter 295, Zoning.

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1. Editor's Note: Adoption pending.

**TRAILER CAMP** — Any lot, piece or parcel of ground whereon two or more house trailers, house cars or automobile trailers, equipped with sleeping or living quarters, are located or parked otherwise than for the purpose of loading or unloading or discharge of or entrance of passengers.

**§ 257-2. Permit required to operate trailer or tourist camp.**

It shall be unlawful for any person, firm or corporation to establish, maintain, operate or conduct any trailer camp, tourist camp or similar establishment in any part of the Town of Henrietta without obtaining a permit from the Town Board of the Town of Henrietta.

**§ 257-3. Permit required to store or park trailer; restrictions.**

- A. It shall be unlawful for any person, firm or corporation to store, park or otherwise locate any house trailer to exceed 72 hours when used or occupied as living or sleeping accommodations in any part of the Town of Henrietta without obtaining a permit from the Town Board of the Town of Henrietta.
- B. A building permit shall be required for any person, firm or corporation to park, store or otherwise locate a storage trailer or office trailer within the Town. A building permit shall be required for storage trailers to be used as temporary construction site offices, temporary construction site storage, real estate sales and other emergency temporary office space that may be required due to the event of a fire or disastrous act of nature. Fees for such permits shall be established by the Town Board as prescribed by law. **[Added 4-3-1991<sup>2</sup>]**
  - (1) Storage trailer or container permits shall be valid for six months.
  - (2) Storage trailer or container locations shall be approved by the Fire Marshal/Building Inspector prior to placement of the storage trailer or container.
  - (3) Storage trailers or containers shall not be used to store any hazardous materials or chemicals.
  - (4) Storage trailers or containers shall not be used as a means to advertise business activities of any kind.

**§ 257-4. Movable/Portable storage units. <sup>3</sup>**

This section applies to movable/portable storage units on nonconstruction sites and all residential properties.

- A. Movable/Portable storage units may be on the property for no more than 30 consecutive calendar days for the purpose of loading or unloading the storage unit.

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2. Editor's Note: Adoption of amendments pending.

3. Editor's Note: Adoption pending.

- B. After 30 days, a permit must be obtained from the Town of Henrietta Building Department allowing the portable unit to remain for no longer than 90 days.

**§ 257-5. Removal of wheels or enclosure of space beneath trailer.**

Removal of the wheels of a house trailer, house car or automobile trailer, except temporarily for repairs, or the permanent blocking up or the enclosure of the space beneath a trailer, house car or automobile trailer shall be construed to automatically convert the same into a permanent building or structure subject to the requirements of all laws and ordinances of the Town of Henrietta applicable to dwellings and shall automatically revoke any permit issued by the Town Board of the Town of Henrietta.

**§ 257-6. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

Any person, firm or corporation who or which violates any provision of this chapter shall be guilty of an offense and, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for not more than 15 days, or both, and, in addition, the violation of this chapter or any of the provisions thereof shall subject the person, firm or corporation violating the same to a civil penalty in the sum of \$50, and when a violation of this chapter or any of the provisions thereof is continuous, each 24 hours thereof shall constitute a separate and distinct violation. Said penalty shall be recovered by the Town of Henrietta in civil action. The application of the above penalty or penalties or the prosecution for the violation of the provisions of this chapter shall not be deemed to prevent the revocation of any permit issued pursuant thereto or the enforced removal of conditions prohibited by this chapter.





## Chapter 261

### TREES

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| § 261-1. Short title.                      | § 261-8. Interference with Municipal Arborist or Supervisor's designee.                         |
| § 261-2. Definitions and word usage.       | § 261-9. Protection of trees.   |
| § 261-3. Shade Tree Commission.            | § 261-10. Placing materials which impede the passage of water, air or fertilizer to tree roots. |
| § 261-4. Municipal Arborist.               | § 261-11. Landscaping for new subdivisions.   |
| § 261-5. Permits required.                 | § 261-12. Penalties for offenses.   |
| § 261-6. Obstructions; trees to be pruned. | § 261-13. Purpose; when effective.  |
| § 261-7. Damaging public trees.            |   |

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 6-17-1998. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Parks — See Ch. 187.  
Property maintenance — See Ch. 205.

Subdivision of land — See Ch. 245.

#### § 261-1. Short title.

This chapter shall be known and may be cited as the "Municipal Tree Ordinance of the Municipality of Henrietta, County of Monroe, State of New York."

#### § 261-2. Definitions and word usage.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "should" is directory, whereas the word "shall" is mandatory and not merely directory.

dbh — The diameter of the trunk at breast height (4.5 feet from the ground).

DEAD TREE — Any tree not bearing or renewing leaves or needles in season.

ENDANGERING TREE — Any tree posing a threat to life, limb or property such that, in the judgment of the Municipal Arborist, removal must be accomplished within two weeks.

LARGE TREES — Designated as those attaining a height of 45 feet or more.

**MEDIUM TREES** — Designated as those attaining a height of 30 to 45 feet. **[Amended 6-20-2001 by L.L. No. 3-2001]**

**MUNICIPAL ARBORIST** — The Municipal Arborist or other qualified designated official of the Municipality of Henrietta, County of Monroe, State of New York, assigned to carry out the enforcement of this chapter. **[Amended 6-20-2001 by L.L. No. 3-2001]**

**MUNICIPALITY** — The designated area unit of the Town of Henrietta, County of Monroe, State of New York.

**PARK** — Includes all public parks having individual names.

**PARK AND STREET TREES DEPARTMENT** — The Department of Parks and Facilities and/or the Highway Department or other designated departments of the municipality under whose jurisdiction park and/or street trees fall. **[Amended 6-20-2001 by L.L. No. 3-2001]**

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

**PRINCIPAL THOROUGHFARE** — Any street upon which trucks are not prohibited.

**PROPERTY LINE** — The outer edge of a street, road or highway.

**PROPERTY OWNER** — The person owning such property as shown by the County Auditor's Plat of Monroe County, State of New York.

**PUBLIC PLACES** — Includes all other grounds owned by the Town.

**PUBLIC TREES** — Includes all shade and ornamental trees now or hereafter growing on any street or any public areas where otherwise indicated.

**SMALL TREES** — Designated as those attaining a height of 20 to 30 feet.

**STREET or HIGHWAY** — The entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

**TREE LAWN** — That part of a street or highway not covered by sidewalk or other paving lying between the property line and that portion of the street or highway usually used for vehicular traffic.

### **§ 261-3. Shade Tree Commission.**

- A. There shall be created a commission to be known and designated as the "Shade Tree Commission (STC)," which shall be a subcommittee of the Henrietta Conservation Board. The STC shall consist of the current seven members of the Conservation Board, the Commissioner of Public Works as an ex officio member and the Director of Parks and Facilities or Municipal Arborist as an ex officio member for a total of nine subcommittee members. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- B. The duties of said Shade Tree Commission shall be as follows:

- (1) To study the problems and determine the needs of the Town of Henrietta, County of Monroe, State of New York, in connection with its tree planting program.
  - (2) To recommend to the property authority the type and kinds of trees to be planted upon such municipal streets or in parks as designated.
  - (3) To assist the properly constituted officials of the Town of Henrietta, County of Monroe, State of New York, as well as the Town Board and citizens of the municipality, in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether the same be on public or private property, and to make the recommendations from time to time to the Town Board as to desirable legislation concerning the trees program and activities for the Town of Henrietta.
  - (4) To provide regular and special meetings at which the subject of trees insofar as it relates to the Town may be discussed by the members of the Commission, officers and personnel of the Town and its several divisions and all others interested in the tree program.
- C. Within a reasonable time after the appointment of said Commission and the approval of the members thereof, upon call of the Supervisor, said Commission shall meet and organize by the election of a Chairman and the appointment of a Secretary. Said Commission shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth.

#### **§ 261-4. Municipal Arborist.**

- A. The Municipal Arborist shall have a four-year college degree or its equivalent in arboriculture; amenity, ornamental or landscape horticulture; urban forestry; or other closely related field. He/She shall have had at least four years' experience in municipal shade tree work or its equivalent.
- B. The Municipal Arborist shall have the authority to promulgate the rules and regulations of the arboricultural specifications and standards of practice governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on the streets or other public sites in the Town and shall direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the Town. He/she shall cause the provisions of this chapter to be enforced. In his/her absence these duties shall be the responsibility of a qualified alternate designated by the Town.
- C. Authority of Municipal Arborist.
  - (1) The Municipal Arborist shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned property to ensure safety or preserve the aesthetics of such public sites.
  - (2) Supervision. The Municipal Arborist shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.

- (3) Conditions of permit. The Municipal Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of this chapter.
- (4) Master Street Tree Plan. The Municipal Arborist shall have the authority to formulate a Master Street Tree Plan with the advice, a hearing and approval of a Shade Tree Commission. The Master Street Tree Plan shall specify the species of tree to be planted on each of the streets or other public sites of the Town. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting shall conform thereto.
  - (a) The Municipal Arborist shall consider all existing and future utility and environmental factors when recommending a specific species for each of the streets or public sites of the Town.
  - (b) Amendments. The Municipal Arborist, with the approval of the Shade Tree Commission, shall have the authority to amend or add to the Master Street Tree Plan at any time that circumstances make it advisable.

#### **§ 261-5. Permits required. <sup>1</sup>**

##### **A. Planting, maintenance and removal.**

- (1) No person shall plant, spray, fertilize, preserve, prune, remove, cut above ground or otherwise disturb any tree on any street or municipal-owned property without first filing an application and procuring a permit from the Municipal Arborist or Supervisor's designee. The person receiving the permit shall abide by the arboricultural specifications and standards of practice adopted by the Municipal Arborist or Supervisor's designee.
- (2) Application for permits must be made at the office of the Municipal Arborist or Supervisor's designee not less than 48 hours in advance of the time the work is to be done.
- (3) Standards of issuance. The Municipal Arborist or Supervisor's designee shall issue the permit provided for herein if, in his/her judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration, and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.
- (4) Notice of completion shall be given within five days to the Municipal Arborist or Supervisor's designee for inspection.

##### **B. Planting.**

- (1) Application data. The application required herein shall state the number of trees to be set out, the location, grade, species, cultivar or variety of each tree; the method

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**1. Editor's Note: Amendments pending adoption.**

of planting; and such other information as the Municipal Arborist or Supervisor's designee shall find reasonably necessary to a fair determination of whether a permit should be issued.

- (2) Improper planting. Whenever any tree shall be planted or set out in conflict with the provisions of this section, it shall be lawful for the Municipal Arborist or Supervisor's designee to remove or cause removal of the same, and the exact cost thereof shall be assessed to the owner as provided by law in the case of assessments.

C. Maintenance.

- (1) Application data. The application required herein shall state the number of kinds of trees to be sprayed, fertilized, pruned or otherwise preserved; the kind of treatment to be administered; the composition of the spray material to be applied; and such other information as the Municipal Arborist or Supervisor's designee shall find reasonably necessary to a fair determination of whether a permit should be issued.

D. Removal, replanting and replacement.

- (1) Whenever it is necessary to remove a tree or trees from a tree lawn in connection with a paving of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, the municipality shall replant such trees or replace them. In the event that conditions prevent planting on tree lawns, this requirement will be satisfied if any equivalent number of trees of the same size and species as provided in the arboricultural specifications are planted in an attractive manner on the adjoining property.
- (2) No person or property owner shall remove a tree from the tree lawn for the purpose of construction or for any other reason without first filing an application and procuring a permit from the Municipal Arborist or Supervisor's designee and without replacing the removed tree or trees in accordance with the adopted arboricultural specifications. Such replacement shall meet the standards of size, species and replacement as provided for in a permit issued by the Municipal Arborist or Supervisor's designee. The person or property owner shall bear the cost of removal and replacement of all trees removed.

**§ 261-6. Obstructions; trees to be pruned. <sup>2</sup>**

It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees or vegetative growth to prune such trees or vegetative growth in such manner that they will not obstruct or shade streetlights, obstruct the passage of pedestrians on the sidewalks, obstruct vision of traffic signs or obstruct view of any street intersection. The minimum clearance of any overhanging portion thereof shall be 10 feet over sidewalks and 12 feet over all streets, except truck thoroughfares which shall have a clearance of 16 feet.

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2. Editor's Note: Amendments pending adoption.

- A. Notice to prune. Should any person or persons owning real property bordering on any street fail to prune trees as hereinabove provided, the Municipal Arborist or Supervisor's designee shall order such person or persons, within three days after receipt of written notice, to so prune such trees.
- B. Order required. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.
- C. Failure to comply. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the Town to prune such trees, and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

#### **§ 261-7. Damaging public trees. <sup>3</sup>**

Unless specifically authorized by the Municipal Arborist or Supervisor's designee, no person shall intentionally damage, cut, carve, transplant or remove any tree; attach any rope, wire, nails, advertising posters or other contrivance to any tree; allow any gaseous liquid or solid substance which is harmful to such trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of the tree.

#### **§ 261-8. Interference with Municipal Arborist or Supervisor's designee. <sup>4</sup>**

No person shall hinder, prevent, delay or interfere with the Municipal Arborist or Supervisor's designee or any of his assistants while engaged in carrying out the execution or enforcement of this chapter; provided, however, that nothing herein shall be construed as an attempt to prohibit the pursuit of any remedy, legal or equitable, in any court of competent jurisdiction for the protection of property rights by the owner of any property within the Town.

#### **§ 261-9. Protection of trees.**

- A. All trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work shall be guarded with a good substantial fence, frame or box not less than four feet high and eight feet square, or at a distance in feet from the tree equal to the diameter of the trunk in inches dbh, whichever is greater, and all building material, dirt or other debris shall be kept outside the barrier.
- B. No person shall excavate any ditches, tunnels or trenches or lay any drive within a radius of 10 feet from any public tree without first obtaining a written permit from the Municipal Arborist or Supervisor's designee.<sup>5</sup>

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3. Editor's Note: Amendments pending adoption.

4. Editor's Note: Amendments pending adoption.

5. Editor's Note: Amendments pending adoption.

§ 261-10

TREES

§ 261-13

**§ 261-10. Placing materials which impede the passage of water, air or fertilizer to tree roots. <sup>6</sup>**

No person shall deposit, place, store or maintain upon any public place of the municipality any stone, brick, sand, concrete or other materials which may impede the free passage of water, air or fertilizer to the roots of any tree growing therein, except by written permit of the Municipal Arborist or Supervisor's designee.

**§ 261-11. Landscaping for new subdivisions. <sup>7</sup>**

- A. For any proposed subdivision, the developer will be required to furnish and install two street trees per lot. Any deviation from the requirement of two street trees per lot will require approval from the Planning Board. This requirement shall not apply to multiple-family dwellings or to cluster developments approved under Town Law § 278.
- B. Upon completion and acceptance of the landscaping, a two-year maintenance agreement will be required of the Town of Henrietta. The maintenance guarantee will be for two years from the date of final acceptance of each section of the subdivision.

**§ 261-12. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001<sup>8</sup>]**

Any person, firm, or corporation violating or failing to comply with any of the provisions of this chapter shall be guilty of misdemeanor and, upon conviction thereof, shall be fined a minimum of \$250 up to a maximum of \$1,000 or may be imprisoned for a term not to exceed one year, or both.

**§ 261-13. Purpose; when effective.**

This chapter is hereby declared to be of immediate necessity for the preservation of public peace, health and safety and shall be in full force and effective from and after its passage and publication as provided by law.

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6. Editor's Note: Amendments pending adoption.

7. Editor's Note: Adoption pending.

8. Editor's Note: Amendments pending adoption.





## **Chapter 273**

### **VEHICLES AND TRAFFIC**

#### **ARTICLE I** **Definitions**

**§ 273-1. Terms defined.**

#### **ARTICLE II** **Traffic Control Devices**

**§ 273-2. Authority to install traffic control devices.**

#### **ARTICLE III** **Parking, Standing and Stopping**

**§ 273-3. Applicability.**

**§ 273-4. Stopping, standing or parking prohibited in certain locations.**

**§ 273-5. Private plazas.**

**§ 273-6. No-parking zones.**

**§ 273-7. Seasonal or temporary no-parking zones.**

#### **ARTICLE IV** **Removal and Storage of Abandoned or Illegally Parked Vehicles**

**§ 273-8. Authority to impound vehicles.**

**§ 273-9. Storage and charges.**

**§ 273-10. Notice of removal.**

#### **ARTICLE V** **Truck Exclusions**

**§ 273-11. Prohibitions; exceptions.**

#### **ARTICLE VI** **Penalties**

**§ 273-12. Penalties for offenses.**

#### **ARTICLE VII** **Enforcement**

**§ 273-13. Enforcement agencies; appearance tickets.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 4-19-1978. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Noise — See Ch. 168.

Parking — See Ch. 183.

Vehicles in parks — See Ch. 187.

Abandoned, junked and unlicensed vehicles — See Ch. 207.

Snowmobiles — See Ch. 230.

Trailers — See Ch. 257.

Motor-driven vehicles — See Ch. 277.

**ARTICLE I  
Definitions****§ 273-1. Terms defined.**

The words and phrases used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.

**ARTICLE II  
Traffic Control Devices****§ 273-2. Authority to install traffic control devices.**

- A. The Town Superintendent of Highways shall have the authority to install and maintain such traffic control devices as he may deem necessary to regulate, warn or guide traffic upon roads, streets and highways maintained and controlled by the Town of Henrietta, subject to the provisions of §§ 1682 and 1684 of the Vehicle and Traffic Law of the State of New York.
- B. All traffic control devices installed and maintained shall conform to the provisions and specifications of the Manual of Uniform Traffic Control Devices of the State of New York, Department of Transportation.

**ARTICLE III  
Parking, Standing and Stopping****§ 273-3. Applicability.**

The provisions of this article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with directions of a police officer or an official traffic control device.

**§ 273-4. Stopping, standing or parking prohibited in certain locations.**

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, in any of the following places, unless otherwise indicated by official signs or markings:

- A. Within 15 feet of a fire hydrant.
- B. In front of or within five feet of a public or private driveway.
- C. Within an intersection.
- D. In front of, in or within 20 feet of the driveway, entrance or paved approach to any fire station.

- E. On or within a crosswalk; provided, however, that vehicles under the control of the Public Service Commission may stop to discharge or receive passengers when weather conditions make loading at regular stops difficult or dangerous to said passengers.
- F. Within 20 feet of a crosswalk at an intersection.
- G. Within a fire lane, as defined in the American Insurance Association Fire Prevention Code, Section 28.16b.
- H. On a sidewalk.
- I. In an area of space posted as a no-parking or a no-standing zone or in an area of space designated for handicapped parking on all property, whether public or private, within the Town of Henrietta, except those persons prominently displaying a valid handicapped parking permit on the dashboard or sun visor on the driver's side of the vehicle. **[Amended 3-19-1980; 2-16-1994]**
- J. So as to prevent a parked vehicle from moving away.
- K. Outside designated or striped parking spaces within a parking area.

**§ 273-5. Private plazas. [Added 5-6-1981]**

- A. The owners of privately owned plazas in the Town of Henrietta are hereby authorized, upon approval by the Town Fire Marshal/Building Inspector, to erect and post a sign or signs regulating traffic and parking within such plazas. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- B. Such signs shall bear the legend: "Enforced by police pursuant to ordinance of the Town of Henrietta."
- C. The erection and posting of such signs shall be deemed to constitute the owner's consent to the enforcement of the regulations by police or other authorized personnel and the entry by them on the property for such purpose.
- D. Parking spaces for the handicapped. **[Added 6-2-1982]**
  - (1) Any person, firm or corporation owning a shopping center or other retail facility requiring designated parking for the handicapped as specified in the New York State Vehicle and Traffic Law shall identify and post these parking areas as follows:
    - (a) Each individual parking stall shall be clearly posted with an upright stationary sign. Signs shall be affixed so as to not be movable or portable.
    - (b) Signs shall be erected on a stationary post or structure with a ground clearance measured from the bottom of the sign at a distance of seven feet.
    - (c) Signs shall be white background with two-inch green lettering and green border. The legend shall clearly indicate "Reserved Parking" and shall conspicuously bear the international mobility impaired access symbol.

Specification and colors for signs shall identically match those defined in New York State law as Sign P-34 as enacted February 23, 1981.

- (2) All other provisions of the New York State Vehicle and Traffic Law regarding reserved parking areas for the handicapped shall hereby remain in force.
- E. All other provisions of this chapter not inconsistent with this section shall be applicable. **[Amended 6-2-1982]**

#### **§ 273-6. No-parking zones. <sup>1</sup>**

- A. Parking is prohibited at any time in the following designated street locations:
  - (1) Both sides of Calkins Road from the entrance to Memorial (Town) Park to Amsden Road.
  - (2) West and south sides of Countess Drive from Scottsville-West Henrietta Road to Erie Station Road (State Route 253). **[Amended 3-18-1998]**
  - (3) West side of Peakview Drive from Erie Station Road south to Staglen Drive.
  - (4) North side of Commerce Drive from the curve adjacent to Red Creek easterly for a distance of 302 feet.
  - (5) Northwest side of Wake Robin Terrace from the intersection of Wake Robin Terrace and Countess Drive for a distance of 130 feet.
  - (6) North and west sides of Queensway Road, extending from Farnsworth Road North to Princess Drive. **[Added 10-18-1978]**
  - (7) East and north sides of Staglen Drive from Peakview Drive to Peakview Drive. **[Added 2-7-1979]**
  - (8) East side of Debran Drive from Staglen Drive to Peakview Drive. **[Added 2-7-1979]**
  - (9) West and north sides of Peakview Drive from Debran Drive to Staglen Drive. **[Added 12-5-1979]**
  - (10) The cul-de-sac of Florendin Drive. **[Added 6-4-1980]**
  - (11) North side of Thruway Park Drive from West Henrietta Road to its terminus. **[Added 8-20-1980]**
  - (12) Riverview Drive, on both sides of the street, extending from Rivermeadow Drive to Riverview Heights. **[Added 9-17-1980]**
  - (13) Yarrow Hill, on both sides of the street, from Countess Drive to its terminus of Yarrow Hill. **[Added 9-17-1980]**

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1. Editor's Note: The title of this section was changed from "No parking any time" to "No-parking zones" 10-7-2009 by Res. No. 19-186/2009.

- (14) South side of Thruway Park Drive from West Henrietta Road west to its terminus. **[Added 10-15-1980]**
- (15) On Wake Robin Terrace and Green Apple Park culs-de-sac. **[Added 2-6-1980]**
- (16) On the cul-de-sac of Pauline Circle. **[Added 4-2-1980]**
- (17) On the Green Aster Drive cul-de-sac. **[Added 12-17-1980]**
- (18) On the cul-de-sac of Park Acre Road. **[Added 2-18-1981]**
- (19) On the culs-de-sac of Patrician Drive North and Patrician Drive South. **[Added 3-18-1981]**
- (20) On the cul-de-sac of Princess Drive. **[Added 8-19-1981]**
- (21) On the cul-de-sac of Pittsford-Henrietta Town Line Road. **[Added 7-21-1982]**
- (22) (Reserved)<sup>2</sup>
- (23) On both sides of New Clay Road from Jefferson Road to Route 390. **[Added 10-7-1982]**
- (24) On the east side of Authors Avenue from Agar Avenue to Ravens Road. **[Added 12-7-1983]**
- (25) From the intersection of Pinnacle Road and Goodburlet Road, extending 600 feet west on the south side of the road. **[Added 6-5-1985]**
- (26) On the circle at the southern end of Clay Road. **[Added 11-6-1985]**
- (27) On the Hartwood Drive cul-de-sac. **[Added 8-20-1986]**
- (28) On the Lavendar Circle cul-de-sac. **[Added 9-3-1986]**
- (29) On the cul-de-sac at the end of Mertensia Lane. **[Added 4-1-1987]**
- (30) On the Stoddard Drive cul-de-sac. **[Added 5-20-1987]**
- (31) On the north side of Myrtlewood Drive a distance of 1,200 feet to the dead end. **[Added 10-7-1987]**
- (32) From 60 Commerce Drive east to West Henrietta Road on the north side. **[Added 2-17-1988]**
- (33) On the south side of Tree Top Lane from West Henrietta Road to a point 300 feet east. **[Added 8-16-1989]**
- (34) The first 1,000 feet of Brooks Road west of the intersection of West Henrietta Road (both sides). **[Added 11-2-1994]**

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2. Editor's Note: Former Subsection A(22), added 10-7-1982, which prohibited parking on the north side of Countess Drive, was repealed 4-18-1984.

- (35) On the inside of the continuous curve of Dessie Heights. **[Added 3-18-1998]**
  - (36) On both sides of Goodway Drive from South Winton Road to Goodway Drive south. **[Added 10-7-1998]**
  - (37) On both sides of Jarley Road from East Henrietta Road to a point 400 feet east. **[Added 10-7-1998]**
  - (38) On the south side of Bailey Road from Vollmer Parkway to Parkerhouse Road. **[Added 11-19-2003]**
  - (39) Oak Mills Crossing from Valley View Drive to cul-de-sac at south end of Oak Mills Crossing (both sides). **[Added 10-7-2009 by Res. No. 19-186/2009]**
  - (40) South and west side of Elk River Road. **[Added 10-7-2009 by Res. No. 19-186/2009]**
  - (41) South side of Reids Grove. **[Added 10-7-2009 by Res. No. 19-186/2009]**
  - (42) South side of Still Pond Way. **[Added 10-7-2009 by Res. No. 19-186/2009]**
  - (43) South side of Valley View Drive. **[Added 10-7-2009 by Res. No. 19-186/2009]**
  - (44) South and west side of Shore Drive from Valley View Drive to cul-de-sac at south end of Shore Drive. **[Added 10-7-2009 by Res. No. 19-186/2009]**
  - (45) River Meadow Drive, on the cul-de-sac and between River View Drive and East River Road on both sides and between River View Drive and the River Meadow Drive cul-de-sac on the north side only. **[Added 5-7-2014 by Res. No. 10-123/2014]**
  - (46) River View Drive between River Meadow Drive and River View Heights Drive on both sides and between River View Heights Drive and the north terminus of River View Drive on the west side only. **[Added 5-7-2014 by Res. No. 10-123/2014]**
  - (47) Hazel Street on the west side only. **[Added 5-7-2014 by Res. No. 10-123/2014]**
  - (48) Wellington Drive on the south side only. **[Added 5-7-2014 by Res. No. 10-123/2014]**
  - (49) Landing Street on the west side only. **[Added 5-7-2014 by Res. No. 10-123/2014]**
  - (50) River Meadow Drive on the north side only. **[Added 5-7-2014 by Res. No. 10-123/2014]**
  - (51) Celia Court on the north side only. **[Added 5-7-2014 by Res. No. 10-123/2014]**
  - (52) Blueberry Crescent cul-de-sac. **[Added 11-19-2014 by Res. No. 21-256/2014]**
- B. Parking is prohibited at any time at any other street location as may be designated hereafter by resolution of the Town Board.
- C. No parking from 11:00 p.m. to 9:00 a.m.: **[Added 10-7-2009 by Res. No. 19-186/2009]**

- (1) Oak Mills Crossing from Valley View Drive to Chesapeake Landing (both sides).
- (2) North and east side of Elk River Road.
- (3) North side of Reids Grove.
- (4) North side of Still Pond Way.
- (5) North side of Valley View Drive.
- (6) North and east side of Shore Drive from Valley View Drive to cul-de-sac at south end of Shore Drive.
- (7) Both sides of Shore Drive from Valley View Drive to York Bay Trail.

**§ 273-7. Seasonal or temporary no-parking zones. [Added 7-21-1982]**

**A. Parking near fairgrounds.**

- (1) The following streets be and are hereby designated as no-parking zones to be duly posted by the Commissioner of Public Works:

<b>Street Name</b>	<b>From</b>	<b>To</b>
Amesbury Road	Amsden Drive	Armbruster Road
Amsden Drive	East Henrietta Road	Armbruster Road
Appledore Circle		
Armbruster Road	Amsden Drive	Calkins Road
Asia Circle		
Beaconsfield Road	Calkins Road	Colonnade Drive
Calkins Road	Strawberry Hill Road	Hartwood Drive
Carney Circle		
Eagan Boulevard	Beaconsfield Road	Sisson Drive
Gloucester Circle		
Lavender Circle		
Patrician Circle		
Patrician Drive		

- (2) This resolution shall take effect annually at 12:00 noon on the opening day of the Monroe County Fair and shall remain in effect until 12:00 noon on the day following the closing of the Fair.

## ARTICLE IV

**Removal and Storage of Abandoned or Illegally Parked Vehicles****§ 273-8. Authority to impound vehicles.**

- A. When any vehicle is parked or abandoned on any highway within this Town during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed by the Town Superintendent of Highways or his authorized agent or by the Commissioner of Public Works or his authorized agent.
- B. When any vehicle is found unattended on any highway within this Town where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by the Town Superintendent of Highways or his authorized agent.
- C. When any vehicle is parked in violation of the provisions of §§ 273-4, 273-5 and 273-6 or found abandoned on any highway within the Town of Henrietta, said vehicle may be removed by the Town Superintendent of Highways, his authorized agent or by or at the direction of a Deputy Sheriff, state police officer or other police officer to any place designated by the Town Board as a vehicle pound. **[Amended 5-6-1981]**

**§ 273-9. Storage and charges.**

After removal of any vehicle as provided in this article, the Town Superintendent of Highways or his authorized agent may store such vehicle in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the Town Superintendent of Highways or his authorized agent of the amount of all expenses actually and necessarily incurred in effecting such removal.

**§ 273-10. Notice of removal.**

The Town Superintendent of Highways or his authorized agent shall without delay report the removal and the disposition of any vehicle removed as provided in this article to the Monroe County Sheriff's Department and to the New York State Police.

## ARTICLE V

**Truck Exclusions****§ 273-11. Prohibitions; exceptions.**

All trucks, tractors and tractor-trailers having a gross vehicle weight of 10,000 pounds or more are hereby excluded from all Town roads in the Town of Henrietta, except for the purpose of making local deliveries or pickups, and except for farm operations, local construction operations, Town highway and public utility trucks in similar local purposes, school buses, Rochester Transit Corporation buses, fire trucks, emergency vehicles and federal, county-owned and state-owned trucks and military vehicles.



## ARTICLE VI

**Penalties <sup>3</sup>**

**§ 273-12. Penalties for offenses.** [Amended 5-6-1981; 6-2-1982; 3-3-1988; 8-15-1990; 2-16-1994; 6-20-2001 by L.L. No. 3-2001<sup>4</sup>]

- A. Any person convicted of a traffic infraction for a violation of any provision of this chapter or for operating a motor vehicle in violation of any traffic control device installed pursuant to the provisions of § 273-2 of this chapter shall be subject to the penalties provided in § 1800 of the Vehicle and Traffic Law.
- B. Failure to respond to the issued summons will result in forwarding a report to the New York State Department of Motor Vehicles under the Scofflaw Law.

## ARTICLE VII

**Enforcement**

**§ 273-13. Enforcement agencies; appearance tickets.**

- A. The provisions of this chapter shall be enforced by members of the state police, Monroe County Sheriff's Department and other law enforcement officers and, in addition, by anyone authorized by the Town Board of the Town of Henrietta to issue appearance tickets.
- B. When a law enforcement officer or a Town employee authorized to issue an appearance ticket as aforesaid finds a vehicle so parked or standing as to constitute a violation of §§ 273-2, 273-4, 273-5, 273-6 and 273-7 of this chapter, and when the absence of the operator or owner prevents present personal service of a notice as prescribed in the following subsection, said officer or duly designated Town employee shall attach a ticket form to the vehicle and shall prepare, sign and verify the information. The ticket bearing the information shall be in a form prescribed by the Town Board of the Town of Henrietta, with the advice of the Town Justices. The signed and verified information shall be delivered promptly to the Justice Court of the Town of Henrietta. [Amended 5-6-1981; 2-16-1994]
- C. The attachment of a parking violation ticket to a vehicle shall be deemed a sufficient notice to the operator or owner of said vehicle.
- D. Noncompliance. In the event that the owner or operator of a vehicle to which a ticket is attached as prescribed herein, or a person served with notice as prescribed herein, does not appear at the Town Justice Court within the designated time provided, or having so appeared fails to keep any subsequent appearances set by the Court, then, in that event, the Town shall present a signed, verified information to the Justice Court and request that a warrant be issued for the arrest of such person, and such person shall be subjected to prosecution in the same manner as otherwise provided by law. [Added 4-4-1984]

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3. Editor's Note: The repeal of former Art. VI, Littering, added 8-15-1990, is pending adoption.

4. Editor's Note: Adoption of amendments pending.



## **Chapter 277**

### **VEHICLES, MOTOR-DRIVEN**

**§ 277-1. Title.**

**§ 277-2. Purpose.**

**§ 277-3. Prohibited acts.**

**§ 277-4. Enforcement.**

**§ 277-5. Exceptions.**

**§ 277-6. Removal of vehicle; penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 9-6-1978. Amendments noted where applicable.]**

#### **GENERAL REFERENCES**

Vehicles in parks — See Ch. 187.

Abandoned, junked and unlicensed vehicles — See Ch. 207.

Snowmobiles — See Ch. 230.

Vehicles and traffic — See Ch. 273.

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**§ 277-1. Title.**

This chapter shall be known and may be cited as the "Ordinance of the Town of Henrietta Regulating the Use of Motor-Driven Vehicles on Property of the Town of Henrietta and on Privately Owned Property Within Such Town."

**§ 277-2. Purpose.**

It is the purpose of this chapter to preserve and promote the health, safety and general welfare of those inhabitants of the Town of Henrietta who wish to use and operate motor-driven vehicles on private property or municipal property. It is also the purpose of this chapter to prevent those inhabitants of the Town of Henrietta who wish to use and operate motor-driven vehicles from trespassing on public or private property in the Town of Henrietta, from annoying inhabitants and from creating a public nuisance.

**§ 277-3. Prohibited acts.**

It shall be unlawful to operate or for the owner to permit the operation of any type of motor-driven vehicle or conveyance, including but not limited to two-wheel vehicles known as minibikes, trail bikes and motorcycles and four-wheel motor vehicles known as go-carts and excepting no-wheel vehicles, such as but not limited to snowmobiles, under the following circumstances:

- A. On private property of another person without written permission of the owner or occupant of said property. Said written permission must be in the possession of the person operating the motor-driven vehicle and must be presented upon demand to any peace officer or police officer so demanding.

- B. On any property owned, leased or controlled by the Town of Henrietta, except on trails duly designated by the Town for the use of such vehicles at the times and in the manner so designated.
- C. On property owned by the Town of Henrietta and on privately owned property as follows:
  - (1) In such a manner as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
  - (2) In a careless, reckless or negligent manner so as to endanger or be likely to endanger the safety or property of any person, including the operator of said vehicle.
  - (3) At a rate of speed greater than reasonable or proper under the surrounding circumstances.
  - (4) While in an intoxicated condition or under the influence of alcohol, narcotics or drugs as defined by § 114-a of the Vehicle and Traffic Law.
  - (5) Between sunset and sunrise or when lights are required for safety without displaying at least one lighted headlight and taillight.

#### **§ 277-4. Enforcement.**

The Monroe County Sheriff's Department and any other peace or police officer shall enforce the provisions of this chapter.

#### **§ 277-5. Exceptions.**

This chapter shall not apply to police and emergency vehicles.

#### **§ 277-6. Removal of vehicle; penalties for offenses.**

- A. Any member of the Monroe County Sheriff's Department or any other enforcement officer who shall encounter any person operating a motor-driven vehicle or conveyance in violation of this chapter shall remove said vehicle or conveyance to a place designated by the Sheriff. The owner or duly designated agent of the owner of such vehicle or conveyance may regain the same upon payment of all expenses and charges necessarily and actually incurred by the removal and/or storage of said vehicle or conveyance.
- B. Any person, firm or corporation violating or permitting the violation of any provision of this chapter shall be guilty of a violation and, upon conviction thereof, shall be fined a minimum of \$100 up to a maximum fine of \$250 or imprisoned for not more than 15 days, or both. Each day's continued violation, after notice of violation from the Town of Henrietta, shall constitute a separate and additional violation. In the case of a second or subsequent violation, the court may order confiscation of said vehicle or conveyance in lieu of any fine and/or imprisonment. Any vehicle or conveyance which is confiscated pursuant to this section will be sold at public auction according to the appropriate

procedures and laws affecting public auctions by municipalities. **[Amended 6-20-2001 by L.L. No. 3-2001]**

- C. In addition, any and all persons, firms or corporations violating or permitting a violation of any of the provisions of this chapter or omitting or refusing to do any act required by this chapter shall severally, for each and every violation and noncompliance respectively, be liable for a civil penalty of \$150.<sup>1</sup>
- D. The imposition of all penalties for any violation of this chapter shall not excuse the violation or permit it to continue. The application of the above penalties or the provisions of this chapter shall not be held to prevent the enforcement of this chapter by other action.

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1. Editor's Note: Amendments pending adoption.



## Chapter 285

### WATER

#### ARTICLE I Water District

- |   |                                       |
|---|---------------------------------------|
| § 285-1. Purpose; compliance required.        | § 285-8. Meters.                      |
| § 285-2. General provisions; definitions.     | § 285-9. Consumption charges.         |
| § 285-3. Provision of new service.            | § 285-10. Delinquent water charges.   |
| § 285-4. Application for service.             | § 285-11. Water shutoff.              |
| § 285-5. Responsibilities of property owners. | § 285-12. Frozen services.            |
| § 285-6. Fire services.                       | § 285-13. Cross-connection control.   |
| § 285-7. Fire hydrants.                       | § 285-14. Main extensions.            |
|   | § 285-15. Supply of water.            |
|   | § 285-16. Water rates and other fees. |
|   | § 285-17. Penalties for offenses.     |

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

#### GENERAL REFERENCES

Building and development — See Ch. 48.  
Drainage — See Ch. 84.  
Fire prevention — See Ch. 119.

Plumbing — See Ch. 198.  
Sewers — See Ch. 219.

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#### ARTICLE I Water District [Adopted 2-5-1986]

##### § 285-1. Purpose; compliance required.

- A. The following rules and regulations adopted by the Town Board of the Town of Henrietta, Monroe County, New York, shall be part of the contract with any person, firm or corporation supplied with water by Henrietta Water District No. 1 and all extensions thereto.
- B. Each and every person, firm or corporation supplied with water or whose property is supplied with water shall be required to comply with the following requirements.

##### § 285-2. General provisions; definitions.

- A. General conditions.

- (1) No person, firm or corporation, unless specifically authorized by the Water District, shall tap, make any attachment or connections with the water main or the water meter or in any way interfere with the same for any purpose whatsoever.

- (2) The town or Water District shall not be liable for any loss or damage to property or persons which may arise or be caused by any increase or decrease in water pressure or for any damages arising from any impurities in said water.
  - (3) The duly authorized representative of the Water District shall be accorded access to the premises of the consumer at any reasonable time for the purpose of inspecting water pipes or fixtures and reading or repairing water meters.
  - (4) No consumer shall make any arrangements for or permit water to be taken from or through any pipe or supply under the jurisdiction of the Water District for use by any other person. Each of the premises to which water is supplied shall be connected to the water main by a separate service pipe.
- B. Definitions. As used in these rules and regulations, the words and phrases listed below shall be hereby defined to have the following meanings:
- APPLICANT — Any person or corporation making a request, in writing, for service to be rendered or furnished by the Henrietta Water District.
- CONSUMER — The person or corporation legally responsible for payment of charges for water or other facilities and services furnished by the Henrietta Water District.
- MAIN or WATER MAIN — A water main in a public street, right-of-way or easement and supplying or capable of supplying water to more than one parcel of property.
- OWNER — The person or corporation owning the property to be served, or the authorized agent of such persons or corporations.
- PLUMBER — A plumber who is properly licensed and registered in the Town of Henrietta.
- SERVICE or SERVICE PIPE — A water service pipe supplying water from a street main to an individual property.
- TOWN BOARD — The Town Board of the Town of Henrietta, Monroe County, New York, or its duly authorized representative.
- WATER DISTRICT — The Henrietta Water District and all extensions, Town of Henrietta, Monroe County, New York.
- WATER METER — An instrument (supplied by the town for a fee) for recording the quantity of water used at a property in which water service is provided by the town.

### **§ 285-3. Provision of new service.**

#### **A. General rules.**

- (1) No service shall be installed or trench opened or excavation made upon public highways except under the supervision of the Water District and before permits are secured from the public office having jurisdiction to issue the same. All services shall be a minimum of five feet in depth and trenches of sufficient width to allow



inspection. Except with special permission of the Water District, all services under pavements must be installed by means of boring equipment; no open cuts will be permitted. Services under pavements must be at least five feet below the top of the pavement. The safety provisions of applicable laws, building and construction codes shall be complied with. Machinery, equipment and all hazards shall be guarded or eliminated in accordance with the safety provisions of the Occupational Safety and Health Act to the extent that such provisions are not in contravention of applicable laws.

- (2) All water service connections shall conform to the relevant local and/or state plumbing codes.
- (3) Service pipes from the corporation stop to the curb stop and from the curb stop to the water meter shall be installed and paid for by the owner or applicant at his expense, and all work shall be inspected by a duly authorized agent of the Water District before the pipes are covered. Such service pipes two inches or less in diameter shall be Type K copper and not less than one inch in diameter. Service pipes larger than two inches shall be cement-lined ductile iron pipe or other similar material approved by the Water District. Corporation stops, curb stops, curb boxes and other fittings shall be of the types used in the construction of the water system unless otherwise approved by the Water District. After inspection and acceptance of the service installation, the trench to the curb box shall be backfilled. Backfilling shall be tamped or compacted in an approved manner, if required. Repairs to pavement and other damage to public facilities shall be made by the owner or applicant at his own proper cost and expense. **[Amended 6-20-2001 by L.L. No. 3-2001]**

B. Residential. The following rules shall apply to individual single-family residential units:

- (1) The owner shall submit to the Water District the provided application form and required fee. The fee will include all costs incurred by the Water District for tapping the main and providing and connecting the water meter.
- (2) Water service will be turned on at the request of the owner upon satisfactory completion of all required work by the homeowner's plumber. The Water District will assume the piping and fixtures which the service will supply are in proper order to receive the same. The Water District will not be liable in any event for any accident, breaks or leakage arising in any connection with the supply of water or failure to supply the same.

C. Commercial and industrial. The following rules shall apply to commercial and industrial facilities, including multiple-family dwellings:

- (1) Prior to the Water District providing service, all commercial and industrial developments must satisfy the requirements of this article, Chapter 119, Fire Prevention, and the Town of Henrietta water standards.
- (2) All cross-connection prevention criteria shall be satisfied as per § 285-13, Cross-connection control.

- (3) Water service will be turned on at the request of the property owner upon payment of all required fees, receiving all approvals and installation of the water meter.

**§ 285-4. Application for service.**

- A. Application for water service shall be made in writing to the Water District on the form provided. On acceptance by the Water District, the application shall constitute a contract between the Water District and the applicant obligating the applicant to pay the Water District its established rates and charges and to comply with its rules and regulations.
- B. Applications will be accepted subject to there being an existing main in a street or right-of-way abutting on the premises to be served, but acceptance shall in no way obligate the Water District to extend its mains to service the premises excepting as provided in § 285-14, Main extensions.
- C. When the application has been filed with the Water District and advance payment made for the charge of tapping the water main and installing the water meter, the Water District will tap the water main and install the water meter. The owner will install the service from the corporation stop to the building shutoff valve and excavate and backfill the trench or provide a boring, if required, suitable for service installation from the corporation stop at the water main to the meter location. The Water District will make a service charge to include tapping the water main, the meter and the inspection of the entire installation. Service charges as established from time to time by the Town Board are on file with the Town Clerk. That portion of the service installation from the water main to the curb stop shall be maintained by and remain under control of the Water District. All charges shall be paid by the owner or the applicant in advance of installation.
- D. Application of builders, contractors, real estate developers and others for temporary water service will be supplied, provided that it does not interfere with use of water for general purposes. The quantity of water taken for such purposes shall be determined by meter and shall be paid for in accordance with the rate schedule applicable to metered general purposes. Customers requiring temporary water service shall reimburse the District for all its expense in connection with providing and removing the necessary temporary service connections.
- E. No agreement shall be entered into by the Water District with any applicant for service until all charges due from the applicant for water or services at any premises now or heretofore owned or occupied by him which are in arrears shall have been paid.

**§ 285-5. Responsibilities of property owners.**

- A. Service installation and maintenance. The owner of a parcel of property is responsible for the installation and any necessary replacement of the entire water service pipe supplying water to that parcel from the connection with the street main into the property. The owner is responsible for all necessary repairs of the water service pipe from the curb valve into the property. (The Water District will provide necessary repairs to the service pipe between the connection with the street main and curb stop.) Where there is no curb

stop, the property owner is responsible for all repairs from the connection with the street main into the property. The Water District may, by written notification, require a property owner to make necessary repairs to a leaky or defective service, if such repairs are the responsibility of the owner.

- B. Plumbing work. For work which is the responsibility of the property owner, the owner shall arrange with a private plumber, properly licensed in the Town of Henrietta, for such work to be performed. The owner shall be responsible for all necessary permits to be obtained and all necessary fees paid. The owner shall bear the full cost of such work, including the cost of any necessary street or sidewalk restoration.
- C. Meters. The property owner is responsible for seeing that the meter installed by the Water District is not removed, illegally bypassed or tampered with and that any bypass valve is not opened, except by the Water District. The owner is responsible for safeguarding the meter and shall be charged for any damage, loss or theft of the meter.
- D. Water consumption. The owner is responsible for seeing that all water delivered to the property is properly registered on a meter and is paid for. An owner of any parcel of property which is connected to the town's water distribution system shall be deemed to accept water service to the parcel on the terms and conditions specified in the Town Code, state law and all duly promulgated rules and regulations. If the town fails to issue water bills for a period of time, the owner is still liable for water consumed on the premises and shall be responsible for paying all water bills which may subsequently be issued.

#### **§ 285-6. Fire services.**

- A. Fire services shall be designed and installed in accordance with the Town of Henrietta standard specifications for water systems and Chapter 119, Fire Prevention, and shall be reviewed by the Fire Marshal.
- B. All fire services shall be equipped with a detector check valve and bypass meter. Fire service shall be used only for fire protection. If the utilities administrator or appropriate department head determines that it is possible for water to be used for other than fire protection, he may require the property owner to install a mainline meter in the service with cross-connection devices as specified in § 285-13.

#### **§ 285-7. Fire hydrants.**

- A. Fire hydrant design and installation shall comply with the Town of Henrietta standard specifications for water distribution systems and requirements of Chapter 119, Fire Prevention. The Fire Marshal shall review and approve all plans for new developments.
- B. All fire hydrants are under the control of the Water District. No person except an employee of the Water District, a member of a fire department or a person permitted by the Water District in writing (revocable at any time) shall take water from or disturb any fire hydrant.
- C. No person shall place any obstruction that will prevent free access to any fire hydrant.

- D. No person, except those authorized by a fire department, shall use any device for opening any hydrant, except a wrench furnished by the Water District for that purpose.
- E. An application may be made to the Water District for a permit to take water through a fire hydrant. If such a permit is granted, an extension nozzle, meter and wrench will be provided by the Water District to the applicant, and all water taken from the hydrant shall be taken through such nozzle. The nozzle, meter and wrench shall be returned to the Water District upon expiration of the permit. A monthly fee shall be charged for each hydrant permit, and a refundable deposit shall be required for each nozzle, meter and wrench taken. In addition, the applicant shall pay either the minimum hydrant water consumption charge or a metered water consumption charge at the regular metered consumption rate, at the discretion of the Water District.

**§ 285-8. Meters.****A. General.**

- (1) All water for residential, commercial and industrial purposes shall be metered.
- (2) All water meters shall be supplied by the Water District. All meters and meter connections shall at all times remain the sole property of the Water District and shall not be interfered with in any respect.

**B. Installation.**

- (1) All meters shall be furnished and installed by the Water District or a licensed plumber.
- (2) Wherever possible, meters shall be located in the basement or utility room at the place of entry of the water service to the premises. Such place shall be readily accessible to employees of the District for the purpose of reading the meter, inspection and repair. Meters shall be located so that there are no takeoffs in front of them and shall be adequately protected from freezing. When possible, the water meter and backflow prevention device shall not be placed under or in close proximity to any electrical power box or electrical fixtures.
- (3) Where a commercial or industrial building is located more than 100 feet from the street, the Water District may require the meter to be housed in a vault outside the building but inside the property line, instead of inside the building. Where the Water District deems that a meter would not be safe and secure if it is located within the building or that access by a meter reader will be difficult, the Water District may require the meter to be installed in a meter vault. Plans for meter vault construction shall be submitted to the Water District for approval prior to construction. Vaults shall be constructed and maintained by and at the expense of the property owner.
- (4) A bypass around the meter shall be installed by the owner if required by the Water District. The design of the bypass shall be submitted to the Water District for approval prior to installation. The Water District may require a meter to be installed in the bypass by and at the expense of the property owner. If the bypass is

used, the Water District shall be notified within 24 hours of opening the bypass valve. No connections shall be made to the bypass.

C. Maintenance and testing.

- (1) All meters will be maintained by and at the expense of the Water District insofar as ordinary wear and tear are concerned, but the consumer will be held responsible for damage due to freezing, hot water or other external causes. In case of damage, the Water District will repair the meter, if necessary, replacing it with another, the total cost of which shall be paid by the consumer or owner.
- (2) The Water District reserves the right, at all times, to inspect, test, clean, repair, remove and replace any meter at any time and to substitute another meter in its place. In the case of a disputed account involving the question of accuracy of the meter, such meter will be tested by the Water District upon request of the consumer or owner. All complaints about the accuracy of meter registration or water bills on which an overcharge is claimed must be made at the office of the Water District within 15 days after such bill has been received or delivered to the premises of the consumer. The Water District may correct any charge due to a fault in the meter or to incorrect dial reading. Bills on which no complaints have been filed within 15 days after receiving the same or delivery to the premises involved are to be paid as rendered.
- (3) If a seal on a valve, meter or other fitting is broken, it shall be presumptive evidence that the water consumption has not been properly registered on a meter. If a seal is broken, it shall be resealed by the Water District, and the property owner may be charged a fee for resealing. No fee shall be charged if the seal was broken accidentally and the Water District is notified within 24 hours.
- (4) The town or Water District shall not be liable for damages to any premises caused by flooding in connection with the removal of any meter.

**§ 285-9. Consumption charges.**

A. Metered.

- (1) Periodic bills. Periodic bills shall be issued by the town for water consumption on all active services. Each bill for a service other than a fire service shall include a base charge and a consumption charge.
- (2) Meter readings. Consumption charges shall be based on metered consumption, as determined by periodic meter readings taken by the Water District. Meters will generally be read quarterly.
- (3) Estimated bills. If a meter reader cannot gain access to the meter for a scheduled reading, an estimated bill may be issued, based on past metered consumption. Estimated bills may be escalated by up to 10% beyond past consumption, to reflect the possibility of leakage. If a valid meter reading is obtained subsequent to the issuance of an estimated bill, the account shall be adjusted as necessary to reflect

actual consumption. If no subsequent valid meter reading is obtained, the estimated bills shall stand as originally issued.

**B. Calculated.**

- (1) Conditions. Water consumption charges may, at the discretion of the Water District, be calculated when any of the following conditions are discovered in accordance with Subsection B(2) of this section:
  - (a) There is no meter.
  - (b) The meter is stopped.
  - (c) The meter is illegally bypassed.
  - (d) A bypass valve is open.
  - (e) A bypass seal is broken.
  - (f) The meter is installed in reverse direction to flow.
  - (g) Any other condition which, in the judgment of the Water District indicates that the meter may not have been functioning properly or that the consumption may not have been accurately registered on the meter.
- (2) Procedure. The metered consumption on the premises for either a prior or subsequent period of time, at the discretion of the Water District, shall be used as the basis on which to calculate consumption for the period of time for which the above-listed conditions existed. A calculated bill shall be issued covering the period of time for which the above-listed condition existed.

**§ 285-10. Delinquent water charges.**

- A. General. All water charges imposed pursuant to this article of the Town Code shall be a debt and personal obligation of the owner of the parcel of property to which the water was supplied.
- B. A penalty to 10% of the amount due shall be added to all bills if not received by the due date as printed on the bills, except in such cases as when the postmark is on the due date even though the payment is not received on the actual due date.
- C. All delinquent bills and penalties unpaid on September 30 of each year shall be added to the Monroe County property tax bill of the property on which the water charge was incurred.

**§ 285-11. Water shutoff.**

- A. Conditions. The water supply to a property may be shut off by the Water District when any of the following conditions have not been corrected after notification by the utility administration within 10 days of notification:

- (1) A leaky or defective service pipe.
  - (2) Improper or deteriorated piping at the water meter.
  - (3) No safe access to the water meter.
  - (4) Refusal to allow access to meter for reading at least once a year.
  - (5) Refusal to allow access to meter for servicing.
- B. Immediate shutoff. Where a leaky or defective service pipe is causing damage or a hazardous condition, the water may be shut off as soon as the leak is discovered.
- C. Temporary. The owner of an unoccupied parcel of property may request in writing to the Water District that water service be discontinued. Upon such request and with the cooperation and assistance of the owner, the Water District shall turn off the water at the curb stop and shall take such further steps as may be necessary to assure that no water is supplied to the premises.
- D. Permanent. Any person requesting permanent water shutoff shall be required to do so in writing to the Water District.

**§ 285-12. Frozen services.**

- A. Town will attempt to thaw. Upon receipt of a request from an owner or occupant of premises with a frozen water service, the Water District shall attempt to thaw frozen service. If the attempt is not successful, the Water District shall direct the owner to make the necessary improvements at his expense to alleviate the freezing problem. If corrections are not made by the owner and the Water District is called beyond the initial visit, the corrections will be made by the Water District and charged to the owner's water bill for all expenses incurred by the Water District. There will be no charge for the initial visit.
- B. Liability. The town shall bear no liability for defects in the water service prior to or resulting from its freezing, unless the defects were caused directly by the actions of the Water District.

**§ 285-13. Cross-connection control.**

- A. Policy.
- (1) In the interest of public health and in accordance with Part 5, New York State Sanitary Code, Subpart 5-1, Public Water Supplies, Section 5-1.31, the Water District will not permit its mains or services to be connected directly or indirectly with potential sources of contamination.
  - (2) The degree of protection shall be commensurate with the degree of hazard. The degree of hazard shall be categorized as being either hazardous, aesthetically objectionable or nonhazardous.

- (3) Single-family residential units and small stores with simple plumbing systems shall comply with the New York State Uniform Fire Prevention and Building Code applicable to plumbing requirements for internal cross-connection control. **[Amended 6-20-2001 by L.L. No. 3-2001]**
  - (4) Nonresidential developments shall employ containment cross-connection control which requires the installation of an acceptable backflow prevention device. Such devices shall be designed by a registered professional engineer of the State of New York and comply with the regulations of the New York State Department of Health.
  - (5) Testing and maintenance records shall be kept by the Water District for each required backflow prevention device.
  - (6) All plans and specifications relating to cross-connection control shall be reviewed and approved by the Water District, Monroe County Department of Health and New York State Department of Health.
  - (7) The Water District reserves the right to inspect any existing facility, at any reasonable time, in order to determine if a hazard exists due to an actual or potential cross-connection between the town water system and any potential source of contamination. Hazardous cross-connections shall be promptly eliminated employing an approved backflow prevention device. All costs of design, installation and maintenance shall be borne by the property owner. If a required backflow preventer is not installed within the period of time set by the Water District based on the degree of hazard and applicable state health laws, the supply of water to the premises may be shut off by the Water District until the installation is completed.
- B. Cross-connection hazard. The following partial listing indicates types of facilities which are deemed to be especially likely to have cross-connection hazards:
- (1) Sewage and industrial wastewater treatment facilities.
  - (2) Paper manufacturing or processing and printing plants.
  - (3) Chemical manufacturing or processing plants.
  - (4) Food-processing and meat-packing facilities.
  - (5) Ice manufacturing and commercial refrigeration facilities.
  - (6) Hospitals, medical buildings, laboratories and mortuaries.
  - (7) Metal manufacturing, cleaning and fabricating plants.
  - (8) Film laboratories.
  - (9) Laundries and dry-cleaning establishments.
  - (10) Commercial car washes.
  - (11) Commercial greenhouses and irrigation systems.



(12) Boiler systems and internal fire-fighting systems.

(13) Auxiliary water systems, such as wells.

C. Testing and maintenance.

(1) The property owner, at his own expense, shall disassemble and overhaul the backflow prevention devices every five years.

(2) The property owner shall submit reports of inspection and testing yearly to the Water District and the Monroe County Department of Health within 30 days of completion, using Form GEN-215, New York State Department of Health Report on Annual Test and Maintenance of Backflow Prevention Device.

(3) The initial inspection and test shall be done by the Water District Certified Tester within 45 days of installation. The property owner will be billed for the Water District's inspection and testing.

(4) The Water District shall be notified of all corrective repairs to prevention devices. Tests shall be made after each repair. The property owner shall keep an updated inspection and repair log on the premises.

(5) Persons doing the backflow prevention device testing must be trained and competent in this specialized area.

**§ 285-14. Main extensions.**

A. Application. Builders, contractors or real estate developers proposing water main installations or extensions shall comply with all requirements in the Town of Henrietta water systems standards. The Water District shall not allow the installation of water mains until all plan review and preconstruction requirements are satisfied.

B. Size and type. The Water District reserves the right to determine and specify the diameter and type of pipe required to adequately provide the service requested and, subject to the requirements of municipal authorities, its location within or without the limits of a street. The Water District reserves the right to determine the minimum size of any service main.

C. Installation. If the builder, contractor or real estate developer shall extend or install mains, he shall provide his own materials at his sole expense. The Water District reserves the right to specify certain valves, hydrants, pipe material and other materials to be used in the project in accordance with the Town of Henrietta water systems standards. All work of such builder, contractor or real estate developer shall be subject to Water District inspection and approval. All installations by a builder, contractor or real estate developer shall be completed in conformity with the approved plans and specifications.

D. Easements. In the event that easements or rights-of-way are required for the installation and maintenance of the extensions or subsequent additions thereto, the applicant shall provide the Water District with the required information specified in the Town of Henrietta water systems standards. The Water District shall not permit the applicant to

commence construction until easement and right-of-way agreements have been properly executed.

- E. Title. Title to all main extensions except private water mains, by whomever installed, including all service connections between the main and curb boxes, shall be dedicated to the Water District. The Water District shall have the right to further extend any main installed in and to other streets or premises without repayment or refund to any applicant.
- F. Maintenance. The Water District, at its own expense, will maintain the mains owned by the Water District used to supply water to its customers.

**§ 285-15. Supply of water.**

- A. General. The Water District undertakes to use reasonable care and diligence to provide a constant supply of water at a reasonable pressure to all consumers but reserves the right, at any time, without notice, to shut off the water in its mains for the purpose of making repairs and/or extensions or for any other purpose, and it is expressly agreed that the Town Board and the Water District shall not be liable for a variation, deficiency or failure in the supply of water or the pressure thereof for any cause whatsoever or for any damage caused thereby or by the breaking or bursting of any main or service pipe or any attachment to the Water District system. All consumers having boilers upon their premises which are dependent upon the pressure in the Water District mains are cautioned against danger of collapse or lack of water, and all such damage shall be borne exclusively by the consumer.
- B. Nontoxic impurities. The Water District makes no guaranty that its water will be free at all times of rust or other nontoxic impurities. Any property owner or occupant, either residential, commercial or industrial, who requires water of high purity is responsible for the installation and expense of any necessary filters or treatment equipment.
- C. Shortage. The Water District reserves the right, if need be, in periods of drought or emergency, to restrict the use of water for sprinkling to particular hours determined by the Town Board or to prohibit it entirely. Such rules may include provisions imposing penalties for violation of the rules up to \$500 per violation.

**§ 285-16. Water rates and other fees.**

Water rates and other Water District fees will be periodically reviewed and fixed by the Town Board as the Board deems necessary.

**§ 285-17. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

Any violation of these rules and regulations constitutes a misdemeanor and will subject the offender to a fine not exceeding \$1,000 or imprisonment for not more than one year, or both, and to prosecution by the proper authorities.

## Chapter 295

### ZONING

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§ 295-1.	Short title.	§ 295-14.	Permitted uses in B-1 Districts.
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§ 295-9.	Percentage of lot occupied by buildings.	ARTICLE VIII I Industrial Districts	
§ 295-10.	Lot and yard requirements.	§ 295-25.	Permitted uses.
§ 295-10.1.	Rural Residential District.	§ 295-26.	Prohibited uses.
§ 295-11.	Minimum building size.	§ 295-27.	Building height limits.
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		§ 295-29.	Statement of intent; objectives.

HENRIETTA CODE

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| <p>§ 295-30. General requirements.</p> <p>§ 295-31. Application and approval procedure for development.</p> <p>§ 295-32. Site plan approval.</p> <p>§ 295-33. Additional regulations.</p> <p>§ 295-34. Issuance of building permits.</p> | <p>§ 295-51. Communication towers.</p> <p>§ 295-52. Air-supported dome structures.</p> <p>§ 295-52.1. Open space incentive option.</p> <p>§ 295-52.2. Food trucks.</p> <p>§ 295-52.3. Chicken coops.</p> |
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ARTICLE X  
Historic Sites

- § 295-35. Authority; purpose; initiation.
- § 295-36. Historic Site Committee.
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ARTICLE XI  
Miscellaneous Regulations

- § 295-41. Fences in residential districts.
- § 295-42. Animals in residential districts.
- § 295-43. Required lot area in residential districts.
- § 295-44. Off-street parking.
- § 295-45. Dumping of refuse and other substances.
- § 295-46. Existing uses.
- § 295-47. Nonconforming uses.
- § 295-48. Special provisions for service stations.
- § 295-49. Residential outdoor swimming pools.
- § 295-50. Special permit uses.

ARTICLE XII  
Permits

- § 295-53. Procedure for obtaining special permits.
- § 295-54. Granting or denial of special permits.
- § 295-55. Duration of special permits.

ARTICLE XIII  
Administration

- § 295-56. Enforcement.
- § 295-57. Building permit required.
- § 295-58. Certificate of occupancy required.
- § 295-59. Interpretation and application of provisions.

ARTICLE XIV  
Planning Board and Zoning Board of Appeals

- § 295-60. Planning Board.
- § 295-61. Zoning Board of Appeals.
- § 295-62. Powers and duties of Zoning Board of Appeals.
- § 295-63. Appeals.
- § 295-64. Duration of variances.

ARTICLE XV  
General Provisions

- § 295-65. Amendments.

**§ 295-66. Penalties for offenses.****§ 295-67. Effect on other provisions.**

**[HISTORY: Adopted by the Town Board of the Town of Henrietta 7-19-1978. Amendments noted where applicable.]**

## GENERAL REFERENCES

Adult use establishments — See Ch. 6.  
 Building and development — See Ch. 48.  
 Condominium conversions — See Ch. 65.  
 Environmental quality review — See Ch. 103.

Flood damage prevention — See Ch. 125.  
 Signs — See Ch. 224.  
 Subdivision of land — See Ch. 245.  
 Trailers — See Ch. 257.

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## ARTICLE I

### Title

**§ 295-1. Short title.** <sup>1</sup>

This chapter shall be known and may be cited as the "Zoning Ordinance of the Town of Henrietta."

## ARTICLE II

### Definitions

**§ 295-2. Word usage and definitions.**

- A. For the purposes of this chapter, certain terms and words used herein shall be interpreted or defined as follows:
- (1) Words used in the present tense include the future tense.
  - (2) The singular number includes the plural.
  - (3) The word "person" includes a corporation, association or partnership, as well as an individual.
  - (4) The word "lot" includes the word "plot" or "parcel."
  - (5) The term "shall" is always mandatory.
  - (6) The word "used" or "occupied" as applied to any land or building shall be construed to mean the words "intended, arranged or designed to be used or occupied."

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1. Editor's Note: The preamble to this ordinance read as follows: "The Town Board of the Town of Henrietta in the County of Monroe in pursuance of the authority conferred by Article 16 of the Town Law of the State of New York, Chapter 634 of the Laws of 1932, as amended, has enacted the following ordinance to promote the public health, safety, morals and general welfare of the residents of the Town of Henrietta by regulating the height, number of stories and size of buildings and other structures, the percentages of lot that may be occupied, the size of yards, courts and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes, and to provide for development of a balanced, cohesive community in relation to a Comprehensive Plan, which will make efficient use of the town's available land."

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

**ACCESSORY USE OR STRUCTURE** — A use or structure customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**ALTERATION** — As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or an enlargement, either by increasing the floor area or by increasing the height, or the moving from one location or position to another.

**ALTERATION, STRUCTURAL** — Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

**APARTMENT HOUSE** — A building arranged, intended or designed to be occupied by three or more families living independently of each other.

**AREA, BUILDING** — The total habitable area taken from inside of exterior wall to inside of exterior wall and meeting the requirements as described in Subchapter B, Article 2 of the New York State Uniform Fire Prevention and Building Code applicable to one- and two-family dwellings, excluding therefrom porches, terraces, steps and any area occupied by a garage. **[Amended 6-20-2001 by L.L. No. 3-2001]**

**BOARDINGHOUSE** — Any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire, with or without meals. A rooming house or a furnished-room house shall be deemed a boardinghouse.

**BUILDING** — Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

**BUILDING, ACCESSORY** — A subordinate building or portion of the main building on a lot, the use of which is customarily incidental to that of the main or principal building.

**BUILDING, HEIGHT OF** — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to a point midway between the highest and lowest point of the roof, except chimneys, spires, towers, elevator penthouses, tanks and similar permitted projections.

**CHILD-CARE CENTER, DAY-CARE CENTER, NURSERY SCHOOL, PRESCHOOL NURSERY AND FAMILY DAY-CARE HOME** — All relate to the care of children during the day away from their normal home and are more specifically defined as follows:

- (1) **CHILD-CARE CENTER, DAY-CARE CENTER and PRESCHOOL NURSERY** — Provide daytime child-care service and are customarily housed in an established church building or similar facility. The operation shall be duly licensed by the New York State Department of Social Services and under the direct supervision of New York State licensed personnel and their assistants.

- (2) **FAMILY DAY-CARE HOME** — Provides daytime child-care services and is customarily housed in an established single-family dwelling under the supervision of the residing family which has been licensed by the New York State Department of Social Services or certified by the Monroe County Department of Social Services.

**CUSTOMARY HOME OCCUPATION** — An accessory use of a service character customarily conducted within a dwelling by the residents thereof, which is clearly secondary to the use of the dwelling for living purposes and does not change the character thereof or have any exterior evidence of such secondary use. This shall be understood to include the professional office or studio of a physician, dentist, teacher, artist, architect, engineer, accountant, musician, chiropractor, podiatrist, lawyer, manufacturer's representative, real estate salesman or broker, travel agent, insurance agent, business consultant and other services of a professional nature.

**FAMILY — [Amended 12-7-2011 by L.L. No. 3-2011]**

- (1) Includes:

- (a) One, two or three persons occupying a dwelling unit; or
  - (b) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
- (2) It shall be presumptive evidence that four or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.
- (3) In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
- (a) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit.
  - (b) The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family.
  - (c) The group shares expenses for food, rent or ownership costs, utilities and other household expenses.
  - (d) The group is permanent and stable. Evidence of such permanency and stability may include:
    - [1] The presence of minor dependent children regularly residing in the household who are enrolled in a local school.
    - [2] Members of the household having the same address for the purposes of voter registration, driver's licenses, motor vehicle registration and filing of taxes.
    - [3] Members of the household are employed in the area.

- [4] The household has been living together as a unit for a year or more, whether in the current dwelling unit or other dwelling units.
- [5] Common ownership of the furniture and appliances among the members of the household.
- [6] The group is not transient or temporary in nature.
- (e) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

**FARM** — Any parcel of land in excess of five acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes the necessary farm structures within the prescribed limitations and the storage of necessary equipment. It excludes the raising of fur-bearing animals, livery or boarding stables and dog kennels.

**FLAG LOT** — A lot with access provided to the bulk of the lot by means of a narrow corridor. The front lot line of a flag lot shall be the longest interior lot line which is closest to and parallel to the right-of-way which provides access to the lot, other than the line which actually adjoins the right-of-way.<sup>2</sup>

**GARAGE, DETACHED PRIVATE** — A building on a residential lot not physically attached to the residence building located on such lot for an accessory use and the storage of not more than three automobiles.

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

**GAS STATION, GASOLINE FILLING STATION and MOTOR VEHICLE SERVICE OR SUPPLY STATION** — The use of a building, equipment and land for a retail place of business for dispensing of gasoline, motor fuel and motor oil; for sales and servicing of tires, batteries and other automobile accessories; and for washing and lubrication services, but not including body or fender work, painting, major motor repairs or storage of motor vehicles.

**LOT** — A portion or parcel of land considered as a vacant unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use and the customary accessories and open spaces belonging to the same.

**LOT, CORNER** — A parcel of land at the junction of and fronting on two or more intersecting streets. Corner lots have at least two front lot lines, those lot lines fronting on each right-of-way. The rear lot line shall be that line opposite the front lot line which provides access via the driveway. The remaining lot line shall be the side setback line.<sup>3</sup>

**LOT, DEPTH OF** — A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines, at right angles to the street line.

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2. Editor's Note: Adoption pending.

3. Editor's Note: Adoption of amendments pending.



**LOT, THROUGH** — A lot other than a corner lot abutting on two or more streets or upon a street and a right-of-way of more than 25 feet in width.

**LOT, WIDTH OF** — The mean width measured at right angles to its depth, at the setback line.

**MOBILE FOOD VEHICLE** — A commercially manufactured, self-contained, motorized mobile food unit in which ready-to-eat food is cooked, wrapped, packaged, processed or portioned for service, sale or distribution. **[Added 10-16-2013 by L.L. No. 1-2013]**

**MOBILE FOOD VEHICLE APPROVED LOCATION** — (Hereinafter "approved location") Private property zoned commercial or industrial that has an approved special use permit from the Henrietta Town Board; said approval includes designation of one or more areas within that property that have been approved by the Town Board, on the recommendation of the Director of Building/Fire Marshal, in which properly licensed mobile food vehicles may operate. **[Added 10-16-2013 by L.L. No. 1-2013]**

**MOBILE FOOD VEHICLE VENDOR** — The owner of a mobile food vehicle or the owner's agent; hereinafter referred to as "MFV vendor." **[Added 10-16-2013 by L.L. No. 1-2013]**

**MOTOR VEHICLE** — Automobiles, trucks, recreational vehicles, boats, motorcycles, trailers, farm-type tractors and equipment, all-terrain vehicles, snowmobiles and all other over-the-road motorized vehicles. **[Added 6-20-1990]**

**MULTIPLE DWELLING** — A building arranged, intended or designed to be occupied by three or more families living independently of each other.

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

**PARKING SPACE** — The area required for parking one automobile, which in this chapter is held to be an area nine feet wide and 18 feet long, not including passageways.<sup>4</sup>

**SETBACK** — The shortest distance from a lot line of a lot to the exterior of any building located or to be located thereon.<sup>5</sup>

**STORAGE SHED** — A single-story structure that: **[Added 4-6-2005]**

- (1) Is not insulated;
- (2) Possesses no plumbing fixtures;
- (3) Has a footprint of no more than 192 square feet; and<sup>6</sup>
- (4) Is used as an accessory structure for storage purposes only.

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4. Editor's Note: Adoption of amendments pending.

5. Editor's Note: Adoption pending.

6. Editor's Note: Adoption of amendments pending.

**STRUCTURE** — Any man-made facility, including buildings, towers and other edifices.

**SWIMMING POOL (OUTDOOR)** — Any structure intended for swimming or recreational bathing capable of containing water over 24 inches (610 mm) deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs, spas, and retention or decorative ponds.<sup>7</sup>

**TOWNHOUSE** — A one- or two-story single-family dwelling unit joined with another family unit or units in a row or cluster but separated from each other by party walls.

**YARD, FRONT** — An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the main foundation wall of the building and the right-of-way line.<sup>8</sup>

**YARD, REAR** — An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot and the rear line of the building.

**YARD, SIDE** — An open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

### ARTICLE III Districts

#### **§ 295-3. Establishment of districts. [Amended 3-22-1994; 6-20-2001 by L.L. No. 3-2001; 7-20-2005 by L.L. No. 2-2005]**

For the purpose of promoting the public health, safety, morals and general welfare of the community, the Town of Henrietta is hereby divided into the following types of districts:

R-1-20	Residential Districts
R-1-15	Residential Districts
R-2-15	Residential Districts
B-1	Commercial Districts
B-2	Commercial Districts
I	Industrial Districts
PUD	Planned Unit Development Districts
PCD	Planned Commercial Districts
ILCD	Industrial/Limited Commercial Districts

7. Editor's Note: Adoption of amendments pending.

8. Editor's Note: Adoption of amendments pending.

Rural Residential District comprising two subdistricts:

RR-1 Rural Residential District 1 (central water and sewer)

RR-2 Rural Residential District 2 (without central water and sewer)

#### **§ 295-4. Zoning Map.<sup>9</sup>**

The areas of the foregoing districts are bounded and defined as shown on the map entitled the "Official Zoning Map of the Town of Henrietta," which map, with all explanatory matter thereon annexed, is hereby made a part of this chapter, to be duly certified as such by the Town Clerk and posted and filed according to law. Descriptions of the land use districts are on file in the Town offices.<sup>10</sup>

### **ARTICLE IV Provisions Applicable to All Districts**

#### **§ 295-5. Conformity with regulations required.**

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, used, moved, reconstructed, changed or altered unless in conformity with the regulations of this chapter.

#### **§ 295-6. Interpretation of terms.<sup>11</sup>**

- A. Whenever in this chapter a distance is referred to as being measured from a named street, such distance shall be measured in a line at right angles to the side of such street, unless otherwise stated or unless the context requires a different interpretation.
- B. "Street line" or "side line of a street" shall mean the boundary of the highway right-of-way, not the paved or used portion of the highway.

### **ARTICLE V R Residential Districts**

#### **§ 295-7. Permitted uses.**

- A. R-1 Residential Districts. The following uses are permitted in R-1 Districts:

- (1) Single-family dwellings.
- (2) Farms, greenhouses, plant nurseries and customary agricultural operations in connection therewith, but excluding within 100 feet of any lot line any stabling of

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9. Editor's Note: Adoption of amendments pending.

10. Editor's Note: The official Zoning Map of the Town of Henrietta is on file in the office of the Director of Engineering and Planning.

11. Editor's Note: Adoption of amendments pending.

a farm animal, storage of manure or other odor- or dust-producing substance or use.

- (3) Public parks, playgrounds and similar recreational areas and structures not operated for gain.
- (4) Customary home occupations as defined in § 295-2 and provided that the office or studio is located in the dwelling in which the practitioner resides and does not occupy more than 30% of the total floor area of the residence. Not more than one employee may be used. No other offices shall be located on the premises, nor shall any other profession be practiced or conducted on the premises. Any instruction given or professional services or care rendered shall be to one student, patient, client or customer at a time. Adequate off-street parking must be provided and maintained on the premises. The area of the building, exclusive of the portion used for such office, shall conform to the minimum requirements as provided in this chapter. There shall be no display of goods or advertising other than an accessory sign as provided in Chapter 224, Signs.
- (5) Private garages. Attached or detached garage buildings for not more than three motor vehicles with maximum dimensions of 35 feet on the entrance side by 30 feet. R-1-20 Districts shall have at least a two-car private garage; R-1-15 Districts shall have at least a one-car private garage. RR-1 and RR-2 Districts shall have a minimum one-car private garage. There shall not be more than one attached or detached garage per parcel/lot in any residential district. The minimum dimensions for private residential garages shall be as follows:<sup>12</sup>

<b>Maximum Capacity</b>	<b>Minimum Depth/Length (feet)</b>	<b>Minimum Width (feet)</b>
1 car	20	12
2 cars	20	20
3 cars	20	30

- (6) Churches, schools and institutions of higher education, public hospitals, public libraries and municipal and special district buildings, provided that no such building shall be located within 50 feet of any adjoining lot line, and off-street parking shall be provided as set forth in § 295-44.
- (7) Golf courses, including those operated for profit, shall be permitted upon obtaining a special permit therefor from the Town Board. Miniature golf courses and driving ranges apart from golf courses are prohibited.
- (8) Child-care centers, day-care centers, nursery schools, preschool nurseries and family day-care homes shall be permitted under the following conditions:

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12. Editor's Note: Adoption of amendments pending.

- (a) Child-care centers, day-care centers, nursery schools and preschool nurseries shall be permitted when housed in an established church facility which shall be duly licensed by the New York State Department of Social Services and the building facilities of which shall be annually inspected by the Fire Marshal/Building Inspector for compliance with all building and fire codes. The Fire Marshal/Building Inspector shall issue a new certificate of occupancy as evidence that the facility is in compliance with the codes. The cost for such inspection and certificate of occupancy shall be included in a child-care center registration fee established by the Town Board. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- (b) Child-care centers, day-care centers, preschool nurseries and nursery schools, when not housed in an established church facility, shall apply to the Town Board for a special permit as per the requirements of Article XII of this chapter. If such permit is granted, the licensing and inspection requirements of Subsection A(8)(a) of this section shall apply.
- (c) A family day-care home shall be housed in a single-family dwelling and shall be an accessory use to the principal use of the structure. The operation shall be licensed by the New York State Department of Social Services or certified by the Monroe County Department of Social Services. Such license and certification shall be available for inspection during normal daytime hours. A family day-care home shall provide child care for not more than six children based on the age formulas established in Part 458 of the regulations of the State Department of Social Services (Family Day-Care Homes). The building facilities shall be annually inspected by the Fire Marshal/Building Inspector. The provisions outlined in Subsection A(8)(a) of this section shall apply. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- (9) Storage sheds, provided that each shall have a minimum side setback and rear setback of four feet, and shall not infringe on any easements. Notwithstanding the foregoing, no storage shed shall be erected within the required side yard on the street side of a corner lot, as referred to at § 295-10B(2). **[Added 4-6-2005<sup>13</sup>]**
- (10) Open space. **[Added 7-20-2005 by L.L. No. 2-2005]**
- (11) Cemeteries, upon obtaining a special permit from the Town Board in accordance with the procedures set forth in Article XII of this chapter. **[Added 3-1-2006 by L.L. No. 2-2006]**

B. R-2 Residential Districts. The following uses are permitted in R-2 Districts:

- (1) All uses permitted in R-1 Districts, subject to all provisions specified for such districts.
- (2) Two-family dwellings, upon obtaining a special permit from the Town Board in accordance with procedures as set forth in Article XII of this chapter.

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13. Editor's Note: Adoption of amendments pending.

- (3) Nursing homes, upon obtaining a special permit from the Town Board in accordance with procedures as set forth in Article XII of this chapter.
- (4) Apartment houses, subject to provisions as set forth in § 295-13.
- C. Any use not specifically enumerated in this section as a permitted use is prohibited in the R Residential Districts.<sup>14</sup>

#### **§ 295-8. Building height limits.**

No structure in a residential district shall exceed two stories of any kind above the basement, and no residential building shall exceed 21 feet in height from the top of the first floor of the first story to the ceiling of the second story. In the case of buildings described in § 295-7A(6) and B(4), no such structure shall exceed 35 feet in height, except by special permit granted by the Town Board, after a public hearing in accordance with the procedures set forth in Article XII of this chapter.

#### **§ 295-9. Percentage of lot occupied by buildings.**

The ground area of the principal and accessory buildings on any lot shall not exceed 25% of the total area of such lot. The aggregate ground area of all accessory buildings, not including automobile garages, shall not exceed 1% of the total area of such lot, and the number of individual accessory buildings shall not exceed two.

#### **§ 295-10. Lot and yard requirements.**

- A. Lot dimensions for R-1-20, R-1-15 and R-2-15 Districts. The minimum dimensions of any lot on which any building or structure may be hereafter erected shall be subject to the provisions of § 295-43 and the following: **[Amended 7-20-2005 by L.L. No. 2-2005]**

- (1) Minimum area.

<b>District</b>	<b>Minimum Lot Area (square feet)</b>
R-1-20	20,000
R-1-15	15,000
R-2-15	
For two-family units	15,000
For single-family units	12,000

- (2) Minimum width. (It should be noted that these represent minimums, and that lots may exceed these minimums.)

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**14. Editor's Note: Adoption pending.**

<b>District</b>	<b>Minimum Lot Width (feet)</b>
R-1-20	100
R-1-15	80
R-2-15	
For two-family units	100
For single-family units	75

**B. Front yard setbacks.**

- (1) The minimum front yard, rear and side line setback for any buildings or structures hereafter erected shall be as follows:

- (a) For R-1-20 Districts the minimum building front line setback shall be 60 feet.
- (b) For all other R-1 and R-2 Districts the minimum building front line setback shall be 40 feet if located on a Town or private road and 60 feet if located on a county or state road. The Town shall require that front yard setbacks conform to those previously existing on the same or immediately adjacent street.

- (2) In the case of a building on a through lot or corner lot, front yard depth shall be required on both streets.

**C. Side yard setbacks.** Side setbacks are based on lot width and may not be less than eight feet, nor may side setbacks impermissibly infringe on an easement.<sup>15</sup>

**D. Rear yard setbacks.** Minimum rear yard setbacks in all residential districts shall be 10 feet.

**§ 295-10.1. Rural Residential District. [Added 7-20-2005 by L.L. No. 2-2005<sup>16</sup> ]**

**A. Purpose.**

- (1) The purpose of the Rural Residential (RR) District is to support creative, low-impact development patterns and land uses that conserve natural resources and agricultural lands in the entire area of Town south of the New York State Thruway, while enhancing the quality of life for residents.
- (2) The District is established to:

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15. Editor's Note: Adoption of amendments pending.

16. Editor's Note: Adoption of amendments pending.

- (a) Maintain the rural quality of life evident in this area;
- (b) To provide and maintain large, contiguous areas of land to promote and support ongoing agricultural uses and activities, provide animal habitat and protect important natural resources through site design; and
- (c) To allow for development at a medium to low density on a range of lot sizes.

B. Permitted uses.

- (1) All lands within the Rural Residential District shall be limited to those uses allowed in R-1 Residential Districts as identified in § 295-7.
- (2) Senior housing, including assisted living, nursing home and ancillary health-related facilities may be authorized in the RR-1 Subdistrict by a special permit granted by the Town Board, provided such uses are proposed at a density and design that is responsive to the intent of this District, giving consideration to the community needs for such facilities. The Town Board may impose reasonable conditions and request incentives from the development of such projects, including but not limited to provision of land and/or funds for on- and off-site open space conservation. In grant of such permit for senior housing and related facilities, the Town Board may modify the density and dimensional requirements of this District.

C. Preexisting buildings on lots. Buildings on lots lawfully occupied and used as of July 1, 2005, may continue as preexisting uses pursuant to this Zoning Law, and the yard and setback provisions for the previous zoning classifications as of July 1, 2005, shall apply to these buildings.

D. Preexisting (undeveloped) tax parcels that were approved building lots but would now be substandard in RR Districts are subject to the zoning standards that were in effect for those lots prior to July 1, 2005.<sup>17</sup>

E. General requirements of the Rural Residential District. All proposed development for subdivision within the Rural Residential District, whether located in the RR-1 or RR-2 Subdistrict, shall be required to provide a site analysis in the sketch plan phase of the subdivision approval. Site analysis will help to identify significant conservation areas or natural resources that should be protected and conserved. Please see Rural Development Design Guidelines.<sup>18</sup>

F. Area, width and setbacks.

- (1) The following shall apply to the RR-1 Subdistrict:
  - (a) Minimum lot area: two acres (may be smaller with open space incentive).
  - (b) Minimum lot width shall be 80 feet.

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17. Editor's Note: Adoption of amendments pending.

18. Editor's Note: The Rural Development Design Guidelines are on file in the Town offices.



- (c) Minimum front yard setbacks shall be 30 feet if located on a Town or private road or 50 feet if located on a county or state road.
  - (d) Minimum side yard setbacks shall be 10 feet on one side, 15 feet on the other side.
  - (e) Minimum rear yard setbacks shall be 30 feet.
  - (f) Each lot shall contain a minimum of 10,000 square feet of contiguous area for building and yard area free of wetlands, surface water or slopes over 15%.
- (2) The following shall apply to the RR-2 Subdistrict:
- (a) Minimum lot area: five acres (may be smaller with open space incentive).
  - (b) Minimum lot width shall be 100 feet.
  - (c) Minimum front yard setbacks shall be 40 feet if located on a Town or private road or 60 feet if located on a county or state road.
  - (d) Minimum side yard setbacks shall be 10 feet on one side, 20 feet on the other side.
  - (e) Minimum rear yard setbacks shall be 40 feet.
  - (f) Each lot shall contain a minimum of 20,000 square feet of contiguous area for building and yard area free of wetlands, surface water or slopes over 15%.
- G. Building site area. Each lot or development site created or proposed for use shall provide sufficient area to accommodate the proposed structure(s) and other site improvements. An application for site plan and/or subdivision approval shall include data sufficient for the Planning Board to make a determination that adequate water supply, stormwater management, and wastewater disposal facilities can be accommodated on each proposed lot.
- H. Permissible dwelling units. The maximum number of permissible dwelling units for any project shall be the number of dwelling units able to be built as determined through the dimensional requirements set forth in this chapter and through site analysis. The actual number of permissible dwelling units may be fewer than the maximum number of potential dwelling units.

**§ 295-11. Minimum building size.**

- A. No single-family residential dwelling shall contain a square-foot area less than that which is indicated in the following chart. In determining such area, the measurements shall be made along the exterior of the main foundation walls of one-story ranch, one-and-one half story and two-story dwellings. Raised Ranch A and B dwellings shall be the sum of the length and width of the floor above grade, and Split-Level A and B dwellings shall be the sum of the total habitable floor area on each level. These measurements shall

exclude any portion thereof occupied by a porch or areaway and any area occupied by a garage attached to or forming a part of such building. [Amended 4-6-2005; 7-20-2005 by L.L. No. 2-2005<sup>19</sup> ]

Dwelling Type	R-1-20 District	Minimum Area (square feet)	
		R-1-15 and RR Districts	R-2-15 District
One-story ranch	1,400	1,040	810
Raised Ranch A	1,200	850	672
Raised Ranch B	1,400	1,040	810
One-and-one half story A			
First floor	1,200	850	672
One-and-one half story B ("Cape Cod")	1,200	850	672
First floor	1,200	850	672
Second floor	The habitable area shall be less than 2/3 the area of the first floor.		
Split-Level A	1,200	850	672
Split-Level B	1,400	1,040	810
Two-story			
First floor	1,000	660	480
Second story	600	264	192
Total building	2,000	1,320	960

- B. For the purpose of this section the following definitions will apply to the various types of single-family dwellings:

**ONE-AND-ONE-HALF-STORY** — The habitable area being the first floor above grade and in the second floor, the habitable area of the second floor being not less than 2/3 of the area of the first floor.

**ONE-STORY** — A dwelling in which the only habitable area is one floor area above grade.

**RAISED RANCH A** — A dwelling in which there is one habitable floor above grade and a habitable basement both of approximately the same area, the living area of the basement to be not less than 2/3 of the area of the first floor.

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19. Editor's Note: Adoption of amendments pending.

**RAISED RANCH B** — A dwelling in which there is one habitable floor above grade and a habitable basement both of approximately the same area, the living area of the basement to be less than 2/3 of the area of the first floor.

**SPLIT-LEVEL A** — A dwelling in which part of the basement and all of the floor areas above grade are habitable.

**SPLIT-LEVEL B** — A dwelling in which none of the basement is habitable but all of the over floor area above grade is habitable.

**TWO-STORY** — A dwelling in which there are two full habitable stories above grade, each of approximately the same size.

- C. The habitable area in the second story of one-and-one-half-story dwellings and the habitable basement area of Split-Level A and Raised Ranch A dwellings need not be finished at the time the dwellings are built, provided that no further structural work will be needed to complete the finishing work.
- D. Garages are not to be considered as living area.
- E. No dwelling type may exceed 30% of the total development of any subdivision. **[Added 11-2-1988]**

#### **§ 295-12. Private garages.**

- A. Uses. No business, occupation, service or residence shall be permitted. However, an attached garage made an integral part of a residence building may provide living quarters on the second floor.
- B. Parking of commercial vehicles. No commercial vehicles with a rating of over 10,000 pounds gross vehicle weight, including tractors, trailers or any other type of commercial vehicles, shall be stored or parked overnight in any street or right-of-way of any street or on any lot, land or premises in a residential district of the Town of Henrietta, except in an enclosed structure. No display vehicle for commercial purposes shall remain in any district or in any public road for longer than a twenty-four-hour period. For the purpose of this subsection, "overnight" shall be construed to mean between the hours of 9:00 p.m. and 7:00 a.m.
- C. Exceptions. The foregoing provisions shall not apply to recreation vehicles, boats and camping trailers, nor to construction vehicles and equipment while actually and necessarily used in connection with construction or other real property improvement projects.

#### **§ 295-13. Multiple dwellings.**

- A. No multiple dwelling or group of multiple dwellings shall be erected or altered until a special permit has been granted by the Town Board, after a public hearing in accordance with the procedures set forth in Article XII of this chapter.

- B. No multiple dwelling shall contain more than three stories which are used or designed to be used for human habitation. Where more than one multiple dwelling is constructed or exists on a single site or plot so as to form a group of apartment dwellings, each separate building shall conform to the requirements for a single multiple dwelling and to such additional requirements as are hereinafter stated. Townhouses, whether for sale or rent, are permitted as multiple dwellings.
- (1) Size of lot. In R-2 Districts there shall be 2,000 square feet of lot area for each dwelling unit erected on the premises, said 2,000 square feet being in addition to the area occupied by buildings, provided that the aggregate lot occupancy of multiple dwellings in residential districts shall not exceed 25% of the total lot area. In commercial districts the lot area is not regulated, except that not more than 35% of the lot area in commercial districts may be occupied by buildings.
  - (2) Size of unit. No multiple dwelling as defined in this chapter shall be erected or existing structure altered or reconstructed to become such, unless each unit thereof shall contain the following minimum habitable area, exclusive of additional building area required for common use of the tenants, such as lobbies, corridors, stairways, elevator shafts and storage space, or for other common building areas essential and incidental to the overall primary purpose:
    - (a) Efficiency or studio dwelling units. An "efficiency" or "studio dwelling unit" is defined as one which has no separate sleeping area and consists of one room combining both living and sleeping space and a kitchenette or kitchen and a bathroom. The area shall be not less than 500 square feet. In residential zones not more than 25% of the dwelling units in any multiple-dwelling building shall be of the efficiency or studio type, and in commercial zones the proportion shall not be over 50%.
    - (b) A one-bedroom dwelling unit shall have an area of not less than 600 square feet.
    - (c) A two-bedroom dwelling unit shall have an area of not less than 800 square feet.
    - (d) A three-bedroom dwelling unit shall have an area of not less than 950 square feet.
  - (3) Content of unit. All dwelling units must contain at least one habitable room and also a kitchenette or kitchen and bathroom with complete bathroom facilities.
  - (4) Setbacks. The front, side and rear setbacks from all property lines to all multiple-dwelling buildings, parking areas and driveways shall be not less than 60 feet, except that when adjoining property is commercial, the setback may be not less than 30 feet.
  - (5) Parking. All premises occupied by multiple dwellings shall have thereon at the site of the structure and completely off the limits of any street or highway improved and usable parking areas in compliance with § 295-44.

- (6) Distance between buildings in a dwelling group. No part of the main foundation wall of any multiple dwelling in a group of multiple dwellings occupying the same lot or site shall be closer than 40 feet to the main foundation wall of any other apartment building in such group.
- (7) Preliminary hearing. Fourteen preliminary building and site development plans, the latter showing locations of proposed buildings, drives, parking facilities and type of screening as may be required, shall be presented to the Fire Marshal/Building Inspector for staff review and distribution with the application for multiple dwelling or dwelling group development. There may be a preliminary hearing before the Town Board, and the Town Board may require such additional provisions and conditions as appear essential to the promotion of the public health, safety and general welfare. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- (8) Garbage and trash.
  - (a) Adequate provisions must be made on the premises for such safe and convenient storage and removal of garbage as will best promote the public health, safety and general welfare.
  - (b) Areas for the storage of garbage shall be readily accessible for removal and clearing, suitably protected from rodent infestation and visually shielded and shall meet all requirements of the Monroe County Department of Health.

## ARTICLE VI

### B Commercial Districts

**§ 295-14. Permitted uses in B-1 Districts. [Amended 6-20-1990; 7-19-2000 by L.L. No. 3-2000<sup>20</sup>]**

- A. Except as hereinafter limited or prohibited, the following uses are permitted in B-1 Commercial Districts. The uses permitted under Subsection A(1), (2), (3), (4), (5), (7), (8), (9) and (10) are permitted to be carried on only within a building. If a material part of said business is to be carried on out of doors, the user shall first obtain a special permit from the Town Board after a public hearing as provided in Article XII of this chapter. A special permit shall be required to locate two or more buildings with separate entrances on the same lot.
  - (1) Stores and shops for the conducting of any retail business.
  - (2) Personal service shops (barbershops, beauty shops, etc.).
  - (3) Banks, theaters (excluding drive-in theaters), offices, office buildings and undertakers' establishments.
  - (4) Banking, confectionary, dressmaking, laundry and tailoring shops, provided that all goods or products manufactured or processed shall be sold at retail on the premises.

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**20. Editor's Note: Amendments pending adoption.**

- (5) Plumbing and heating appliance and electrical stores.
  - (6) Any other uses permitted in any residential districts subject to the same provisions as would apply in a residential district and subject to the provisions of Subsection B(7) of this section.
  - (7) Animal hospitals.
  - (8) Wholesale houses.
  - (9) Storage and warehouses.
  - (10) Sales of boats and marine supplies.
- B. The following uses shall be permitted in B-1 Commercial Districts, subject in each case to the granting of a special permit by the Town Board of the Town of Henrietta after a public hearing as provided in Article XII and in accordance with the procedures set forth in Article XII of this chapter: **[Amended ]**
- (1) Poolrooms and billiard rooms.
  - (2) Motels, hotels, motor courts, restaurants and bowling alleys.
  - (3) Dry-cleaning establishments.
  - (4) Outdoor or drive-in theaters.
  - (5) Fruit and vegetable stands, hot dog stands, ice cream stands and other roadside stands or fast-food restaurants.
  - (6) Any other business or commercial uses not specifically enumerated herein and not herein specifically prohibited. (See § 295-15.)
  - (7) A residence or residences and private garages, subject to all the regulations as to building height, lot occupancy, size of lot and yards, minimum building size and other regulations applicable to residences and garages in R-2-15 Districts.
- C. Buffer zones.
- (1) When any new building, addition to an existing building or structure is proposed to be erected on any land in this district which abuts any property zoned residential, before any building permit may be issued, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, a site plan showing a minimum of a fifty-foot buffer zone on the applicant's property along the boundary of the applicant's property and any property zoned residential.
  - (2) The intent of the buffer zone is to provide for a visual and, where appropriate, a sound buffer between the residential property and the applicant's property. The Planning Board may require the applicant to landscape such area and construct berms, fences or other appropriate barriers to provide for such buffer. The applicant, prior to commencing any construction on the site, shall post with the Town of Henrietta a letter of credit or other security in a form acceptable to the Town in an amount sufficient to insure the installation of such materials and

plantings as the Planning Board determines necessary. In the case of any landscape material, the applicant shall provide a maintenance guaranty in a form acceptable to the Town in addition to the security or letter of credit set out above for the replacement of any landscaping material that dies within the first two years of planting of said materials.

- (3) The applicant, in its submission to the Planning Board, shall provide the Planning Board and the Engineering Department of the Town of Henrietta with such plans as are necessary to show the natural and established flow of surface water and the anticipated flow of water after construction and, where necessary, shall provide for, at the applicant's cost, the installation of swales, catch basins, storm drains, detention or retention ponds and such other methods of controlling the surface water as deemed necessary by the Planning Board and the Engineering Department.
- (4) The maintenance of the buffer zone shall be the responsibility of the owner of the property, and failure to maintain the buffer zone shall be subject to enforcement by issuance of an appearance ticket provided under Chapter 25, Appearance Tickets, of the Code of the Town of Henrietta.

**§ 295-15. Prohibited uses in B-1 Districts.**

No building, structure or premises shall be erected, constructed or used within any B-1 Commercial District for any of the following purposes:

- A. Automobile dismantling or junkyards.
- B. Used car lots.
- C. Junk, scrap metal, paper or rag storage, cloth clippings, sorting or bailing.
- D. Airports.
- E. Cemeteries.
- F. Garbage, rubbish or refuse dumps other than town-owned dumps.
- G. Public heliports.
- H. All uses that are noxious, offensive, dangerous or injurious by reason of production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration, radiation or similar substances or conditions or which constitute a nuisance.
- I. Public garages. **[Added 6-20-1990]**
- J. Gasoline filling stations and motor vehicle service or supply stations. **[Added 6-20-1990]**
- K. Motor vehicle showroom, sales and service facilities. This prohibition shall not apply to lots fronting on West Henrietta Road between Calkins Road and Lehigh Station Road. Such use may be permitted in that location upon obtaining a special permit from the

Town Board after notice and a public hearing in accordance with procedures set forth in Article XII of this chapter. **[Added 6-20-1990; amended 2-6-2002 by L.L. No. 2-2002<sup>21</sup> ]**

L. Any use not otherwise enumerated herein as permitted in a B-1 District.<sup>22</sup>

**§ 295-16. B-2 Districts. [Amended 6-20-2001 by L.L. No. 3-2001]**

A. The following uses are permitted in B-2 Commercial Districts:

- (1) A residence or residences and private garages subject to all the regulations as to building height, lot occupancy, size of lot and yards, minimum building size and other regulations applicable to residences and garages in R-1-15 Residential Districts.
- (2) Any other uses permitted in any residential district, subject to the same provisions as would apply in a residential district.
- (3) Banks.
- (4) Medical centers.
- (5) Offices and office buildings.
- (6) Professional buildings.
- (7) Any other business or commercial uses not specifically enumerated herein and not herein specifically prohibited by § 295-16B, upon obtaining a special permit from the Town Board after notice and a public hearing in accordance with the procedures set forth in Article XII of this chapter.

B. The following uses are prohibited in B-2 Commercial Districts:

- (1) Amusement parks.
- (2) Miniature golf courses.
- (3) Automobile dismantling or junkyards, cloth clipping, sorting or bailing.
- (4) Used car lots.
- (5) Junk, scrap metal, paper or rag storage.
- (6) Airports.
- (7) Cemeteries.
- (8) Garbage, rubbish or refuse dumps.

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21. Editor's Note: Adoption of amendments pending.

22. Editor's Note: Adoption pending.



- (9) Public garages or gasoline filling stations.
  - (10) Poolrooms or billiard rooms.
  - (11) Bowling alleys.
  - (12) Dry-cleaning establishments.
  - (13) Billboards, meaning signs not used in connection with a commercial use conducted on the premises, except that signs used in connection with the sale, lease or development of these premises or adjoining premises shall be permitted, subject to the provisions of Chapter 224, Signs.
  - (14) Outdoor or drive-in theaters.
  - (15) Automobile showrooms.
  - (16) Outdoor or roadside stands, including fruit and vegetable stands and drive-up hot dog and ice cream stands.
  - (17) Bars, taverns and restaurants serving alcoholic beverages for on-premises consumption.
  - (18) Animal hospitals.
  - (19) Any use not otherwise enumerated herein as permitted in a B-2 District.<sup>23</sup>
- C. Total building square footage on a site in a B-2 District shall not exceed 40,000 square feet and in no event more than 50% of the site area without a special permit from the Town Board in accordance with procedures as set forth in Article XII of this chapter.
- D. Buffer zones. **[Added 2-2-2000 by L.L. No. 1-2000]**
- (1) When any new building, addition to an existing building or structure is proposed to be erected on any land in this district which abuts any property zoned residential, before any building permit may be issued, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, a site plan showing a minimum of a fifty-foot buffer zone on the applicant's property along the boundary of the applicant's property and any property zoned residential.
  - (2) The intent of the buffer zone is to provide for a visual and, where appropriate, a sound buffer between the residential property and the applicant's property. The Planning Board may require the applicant to landscape such area and construct berms, fences or other appropriate barriers to provide for such buffer. The applicant, prior to commencing any construction on the site, shall post with the Town of Henrietta a letter of credit or other security in a form acceptable to the Town in an amount sufficient to insure the installation of such materials and plantings as the Planning Board determines necessary. In the case of any landscape material, the applicant shall provide a maintenance guaranty in a form acceptable to the Town in addition to the security or letter of credit set out above for the

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23. Editor's Note: Adoption pending.

replacement of any landscaping material that dies within the first two years of planting of said materials.

- (3) The applicant, in its submission to the Planning Board, shall provide the Planning Board and the Engineering Department of the Town of Henrietta with such plans as are necessary to show the natural and established flow of surface water and the anticipated flow of water after construction and, where necessary, shall provide for, at the applicant's cost, the installation of swales, catch basins, storm drains, detention or retention ponds and such other methods of controlling the surface water as deemed necessary by the Planning Board and the Engineering Department.
- (4) The maintenance of the buffer zone shall be the responsibility of the owner of the property, and failure to maintain the buffer zone shall be subject to enforcement by issuance of an appearance ticket provided under Chapter 25, Appearance Tickets, of the Code of the Town of Henrietta.

#### **§ 295-17. Landscaped malls.**

- A. As a condition to the issuance of a permit for any commercial use in commercial districts, the owner shall construct a mall at least 20 feet in width, measured at right angles to the highway, immediately adjacent to the highway on which the lands to be used commercially abut, along the entire frontage of the owner's property. Such mall shall have structures at least one foot high, one on each side of said mall, to prevent vehicles from driving over the mall. The owner shall plant such mall with grass or other plants for ground cover and shall, if required by the Planning Board, plant trees thereon. A maximum of 25% of the frontage may be excluded from the mall for private access drives.<sup>24</sup>
- B. The applicant for a commercial permit shall submit plans and specifications for such mall to the Planning Board prior to the application for a building permit. Until such mall has been constructed according to the approved plans and specifications so submitted, no certificates of occupancy for such premises shall be issued.

#### **§ 295-18. Building height limits.**

No building or structure shall be erected to a height in excess of 40 feet except by a special permit by the Town Board after a public hearing in accordance with the procedures set forth in Article XII of this chapter.

#### **§ 295-19. Yard requirements and site plan approval.**

- A. Front yard depth shall be 80 feet on Town roads and 125 feet on county and state roads, except that in the event existing buildings within 200 feet on either side thereof extend nearer than 80 feet to the street line, such minimum front yard depth shall be the average

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<sup>24</sup>. Editor's Note: Adoption of amendments pending.

setback of such existing buildings, but in no case less than 50 feet from a street line. The front yard depth of lots located on the inside part of a curve shall be measured from the nearest point of the cord connecting the arc establishing the front line of the lot to the main building line. This depth provision is for the purpose of providing suitable off-street parking areas.

- B. Side yards shall be five feet. Buildings, the exterior walls of which are constructed of fire-resistant materials, may be erected on lot lines in cases where the adjoining lot is classified as an industrial or commercial district and a means of ingress to and egress from the rear parking and loading areas is provided. On corner lots no building shall be nearer than 50 feet to the side of the lot abutting the side street.
- C. Rear yard depth shall be 60 feet. This provision is for the purpose of establishing suitable loading and unloading areas and of providing suitable off-street parking areas. Rear yards may be reduced, by Planning Board approval, to 30 feet if no loading or unloading occurs in this area.
- D. Before any building permit may be issued for new buildings or structures in commercial districts, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, site plans with reference to building location, landscaping, lighting, walls, parking and drainage, to assure that the building is in harmony with the character of the neighborhood.

#### **§ 295-20. PCD Planned Commercial Districts.**

- A. Intent of regulations. The regulations for Planned Commercial Districts (PCD) are intended to provide for the grouping of buildings that will constitute a convenient, efficient shopping center and/or office center designed as a planned and harmonious unit. A specific intent is to provide commercial areas designed to handle large traffic volumes and for well-planned commercial uses which serve the motoring public, users of mass transit and pedestrians. It is the specific intent to prohibit uses and designs that would be detrimental or inharmonious to adjoining districts, particularly residential districts, or those that would be detrimental to the orderly flow of pedestrian or vehicular traffic.
- B. Regulations.
  - (1) Permitted uses. The following uses are permitted:
    - (a) Shopping centers.
    - (b) Retail or department stores.
    - (c) Personal services, such as dry cleaners, laundromats, beauty parlors and barbershops.
    - (d) Business and professional offices.
    - (e) Commercial business schools.
    - (f) Restaurants and bars.

- (g) Hotels and motels.
  - (h) Indoor recreation facilities.
  - (i) Religious institutions.
  - (j) Community centers.
  - (k) Indoor theaters.
  - (l) Radio and television studios.
  - (m) Enclosed accessory uses.
  - (n) Parking.
- (2) Uses requiring special permit. The following uses shall be permitted in PCD Planned Commercial Districts, subject in each case to the granting of a special permit by the Town Board after a public hearing as provided in Article XII and in accordance with the requirements as set forth in Article XII of this chapter:
- (a) Public garages.
  - (b) Gasoline filling stations, subject to the requirements of § 295-48 of this chapter.
  - (c) Poolrooms and billiard, pinball or other rooms.
  - (d) Outdoor or drive-in theaters.
  - (e) Fruit or vegetable stands, hot dog stands, ice cream stands and other roadside stands.
  - (f) Any other business or commercial uses not specifically enumerated herein and not herein specifically prohibited by § 295-15, upon obtaining a special permit from the Town Board and notice and a public hearing as provided in Article XII of this chapter.
  - (g) Private heliports. Private heliports shall only be permitted in accordance with § 295-14B(8).
- (3) Prohibited uses. All uses prohibited in B-1 Commercial Districts, § 295-15, shall be prohibited in PCD Planned Commercial Districts, except for public garages, gasoline filling stations or motor vehicle service and supply stations or motor vehicle showroom, sales and service facilities, which shall be permitted only upon the granting of a special permit by the Town Board of the Town of Henrietta after a public hearing as provided in Article XII and in accordance with the procedures set forth in Article XII of this chapter, and further upon the requirements set forth in § 295-48 of this chapter for gasoline filling stations and motor vehicle service and supply stations. **[Amended 6-20-1990]**
- (4) Area, yard, coverage and height requirements.

- (a) The district area minimum shall be 10 acres.
- (b) The district width minimum shall be 400 feet.
- (c) The district depth minimum shall be 500 feet.
- (d) Yards required. The design shall not include any building closer than 80 feet to a public street right-of-way or 100 feet to an abutting residential or agricultural district.
- (e) Maximum coverage shall be 30%.
- (f) The maximum height of a building or structure of any kind shall be 40 feet, except by special permit of the Town Board.
- (g) Buffer zones. **[Added 2-2-2000 by L.L. No. 1-2000]**
  - [1] When any new building, addition to an existing building or structure is proposed to be erected on any land in this district which abuts any property zoned residential, before any building permit may be issued, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, a site plan showing a minimum of a fifty-foot buffer zone on the applicant's property along the boundary of the applicant's property and any property zoned residential.
  - [2] The intent of the buffer zone is to provide for a visual and, where appropriate, a sound buffer between the residential property and the applicant's property. The Planning Board may require the applicant to landscape such area and construct berms, fences or other appropriate barriers to provide for such buffer. The applicant, prior to commencing any construction on the site, shall post with the Town of Henrietta a letter of credit or other security in a form acceptable to the Town in an amount sufficient to insure the installation of such materials and plantings as the Planning Board determines necessary. In the case of any landscape material, the applicant shall provide a maintenance guaranty in a form acceptable to the Town in addition to the security or letter of credit set out above for the replacement of any landscaping material that dies within the first two years of planting of said materials.
  - [3] The applicant, in its submission to the Planning Board, shall provide the Planning Board and the Engineering Department of the Town of Henrietta with such plans as are necessary to show the natural and established flow of surface water and the anticipated flow of water after construction and, where necessary, shall provide for, at the applicant's cost, the installation of swales, catch basins, storm drains, detention or retention ponds and such other methods of controlling the surface water as deemed necessary by the Planning Board and the Engineering Department.
  - [4] The maintenance of the buffer zone shall be the responsibility of the owner of the property, and failure to maintain the buffer zone shall be

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subject to enforcement by issuance of an appearance ticket provided under Chapter 25, Appearance Tickets, of the Code of the Town of Henrietta.

ARTICLE VII  
**ILCD Industrial/Limited Commercial Districts**  
**[Added 3-22-1994]**

**§ 295-21. Permitted uses.**

Except as provided in § 295-22, the following uses are permitted in ILCD Industrial/Limited Commercial Districts:

- A. Miniature golf courses.
- B. Restaurants.
- C. Adult use establishments. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- D. Car washes.
- E. Automobile repair shops.
- F. Cold storage/warehousing.
- G. Veterinarian medicine practices.
- H. Trucking companies.
- I. Industrial uses expressly permitted pursuant to § 295-25A(1) through (41) inclusive.

**§ 295-22. Prohibited uses.**

The following uses are prohibited in industrial/limited commercial districts:

- A. Single-family dwellings, two-family dwellings, boardinghouses and nursing homes.
- B. All uses of land, buildings and structures that may be noxious, offensive or injurious by reason of production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or conditions.
- C. All uses prohibited in commercial districts by § 295-15 are prohibited in industrial/limited commercial districts except for public garages, gasoline filling stations or motor vehicle service and supply stations or motor vehicle showroom, sales and service facilities, which shall be permitted only upon the granting of a special permit by the Town Board of the Town of Henrietta after a public hearing as provided in Article XII and in accordance with the procedures set forth in Article XII of this chapter, and further upon the requirements set forth in § 295-48 of this chapter for gasoline filling stations and motor vehicle service and supply stations.

D. Any use not otherwise specified herein as permitted in an ILCD District.<sup>25</sup>

**§ 295-23. Building height limits.**

No building or structure shall be erected to a height in excess of 40 feet except by a special permit granted by the Town Board after a public hearing in accordance with the procedures as set forth in Article XII of this chapter.

**§ 295-24. Yard requirements.**

- A. There shall be a front yard depth of 125 feet, except that in the event that existing buildings within 200 feet on either side thereof extend nearer than 125 feet to a street line, such minimum front yard depth shall be the average setback of such existing buildings, but in no case less than 80 feet from a street line. The front yard depth of lots located on the inside part of a curve shall be measured from the nearest point of the cord connecting the arc establishing the front line of the lot to the main building line. This provision is for the purpose of establishing suitable front yards.
- B. Side yard width shall be five feet. Buildings, the exterior walls of which are constructed of noncombustible material, may be erected on lot lines where the adjoining property is classified as industrial or commercial district and a means of ingress to and egress from the rear parking and loading areas is provided. On corner lots, no buildings shall be nearer than 50 feet to the side line of the lot abutting the side street.
- C. Rear yard depth shall be 60 feet. This depth provision is for the purpose of establishing suitable loading and unloading areas and of providing suitable off-street parking areas.
- D. Buffer zones. **[Added 2-2-2000 by L.L. No. 1-2000]**
  - (1) When any new building, addition to an existing building or structure is proposed to be erected on any land in this district which abuts any property zoned residential, before any building permit may be issued, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, a site plan showing a minimum of a fifty-foot buffer zone on the applicant's property along the boundary of the applicant's property and any property zoned residential.
  - (2) The intent of the buffer zone is to provide for a visual and, where appropriate, a sound buffer between the residential property and the applicant's property. The Planning Board may require the applicant to landscape such area and construct berms, fences or other appropriate barriers to provide for such buffer. The applicant, prior to commencing any construction on the site, shall post with the Town of Henrietta a letter of credit or other security in a form acceptable to the Town in an amount sufficient to insure the installation of such materials and plantings as the Planning Board determines necessary. In the case of any landscape material, the applicant shall provide a maintenance guaranty in a form acceptable to the Town in addition to the security or letter of credit set out above for the

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25. Editor's Note: Adoption pending.

replacement of any landscaping material that dies within the first two years of planting of said materials.

- (3) The applicant, in its submission to the Planning Board, shall provide the Planning Board and the Engineering Department of the Town of Henrietta with such plans as are necessary to show the natural and established flow of surface water and the anticipated flow of water after construction and, where necessary, shall provide for, at the applicant's cost, the installation of swales, catch basins, storm drains, detention or retention ponds and such other methods of controlling the surface water as deemed necessary by the Planning Board and the Engineering Department.
  - (4) The maintenance of the buffer zone shall be the responsibility of the owner of the property, and failure to maintain the buffer zone shall be subject to enforcement by issuance of an appearance ticket provided under Chapter 25, Appearance Tickets, of the Code of the Town of Henrietta.
- E. Before any building permit may be issued for new buildings or structures in any industrial/limited commercial districts, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, plans with reference to shrubbery and landscaping and plans showing construction materials and lighting to be used so as to provide suitable construction materials and architectural designs in harmony with the character of the neighborhood. The applicant shall also submit to the Planning Board and obtain approval of all plans for parking of vehicles. Employee parking shall be generally in rear yards; customer parking only shall be normally permitted in front yards; and no docks or unloading platforms or facilities shall be placed in the front of any building.

## ARTICLE VIII

### I Industrial Districts

#### § 295-25. Permitted uses.

- A. Except as provided in § 295-26, the following uses are permitted in I Industrial Districts:<sup>26</sup>
- (1) Toolmaking.
  - (2) Woodworking shops.
  - (3) Electrical supplies manufacturing or assembly.
  - (4) Surgical instrument manufacturing or assembly.
  - (5) Temperature recording instrument manufacturing or assembly.
  - (6) Lock and hardware manufacturing or assembly.
  - (7) Warehouses and associated offices.

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**26. Editor's Note: Adoption of amendments pending.**



- (8) Business and office equipment manufacturing or assembly.
- (9) Dairy equipment manufacturing or assembly.
- (10) Footwear manufacturing or assembly.
- (11) Clothing manufacturing.
- (12) Plumbing equipment and supplies.
- (13) Ornamental metal and metalware manufacturing or assembly.
- (14) Paper products manufacturing.
- (15) Telephone and telegraph manufacturing or assembly.
- (16) Furniture manufacturing or assembly.
- (17) Printing, lithographing and engraving.
- (18) Light machine shops (punch presses, drop hammers, etc., not over 20 tons).
- (19) Plastic fabrication (not plastic manufacture).
- (20) Bakeries.
- (21) Bottling works.
- (22) Light sheet metal fabrication.
- (23) Cold storage plants and meat processing.
- (24) Electronic manufacturing or assembly.
- (25) Greenhouses.
- (26) Ice cream manufacturing.
- (27) Confectioners.
- (28) Laundries.
- (29) Plating works.
- (30) Printing plants.
- (31) Creameries, milk condensing and dairy plants.
- (32) Optical manufacture.
- (33) Pottery and ceramics.
- (34) Industrial and scientific control instruments.
- (35) Any other industrial uses not prohibited by § 295-26 may be permitted upon the granting of a special permit therefor by the Town Board after a public hearing on

notice as hereinafter provided in accordance with the procedures set forth in Article XII of this chapter.

- (36) Any uses permitted in a commercial district subject to all the conditions applicable to such uses in commercial districts and further subject to the granting of a special permit by the proper board after a public hearing as provided in Article XII.
- (37) Buildings and structures to house laboratories, scientific research centers, experimental and development centers, offices and administrative centers, in connection with the uses provided for by Subsections A(1) to (34).
- (38) Multiple dwellings, but only after obtaining a special permit from the Town Board, after notice and a public hearing, to be granted or denied pursuant to the procedures set forth in Article XII of this chapter and in accordance with all provisions of this chapter applicable to apartment houses.
- (39) The uses enumerated in § 295-7A(2), (3) and (6) and dormitories, faculty dwellings or related uses upon premises used for colleges, universities and other institutions of learning are permitted when used and designed in connection with the operation of such colleges, universities and institutions of learning.

#### **§ 295-26. Prohibited uses.**

The following uses are prohibited in industrial districts:

- A. Single-family dwellings, two-family dwellings, boardinghouses and nursing homes.
- B. All uses of land, buildings and structures that may be noxious, offensive or injurious by reason of production or emission of dust, smoke, refuse matter, odor, gas fumes, noise, vibration or similar substances or conditions.
- C. All uses prohibited in commercial districts by § 295-15 are prohibited in industrial districts, except for public garages, gasoline filling stations or motor vehicle service and supply stations or motor vehicle showroom, sales and service facilities, which shall be permitted only upon the granting of a special permit by the Town Board of the Town of Henrietta after a public hearing as provided in Article XII and in accordance with the procedures set forth in Article XII of this chapter, and further upon the requirements set forth in § 295-48 of this chapter for gasoline filling stations and motor vehicle service and supply stations. **[Amended 6-20-1990]**
- D. Any use not otherwise specified herein as permitted in an I District.<sup>27</sup>

#### **§ 295-27. Building height limits.**

No building or structure shall be erected to a height in excess of 40 feet, except by a special permit granted by the Town Board after a public hearing in accordance with the procedures as set forth in Article XII of this chapter.

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<sup>27</sup>. Editor's Note: Adoption pending.

**§ 295-28. Yard requirements.**

- A. There shall be a front yard depth of 125 feet, except that in the event that existing buildings within 200 feet on either side thereof extend nearer than 125 feet to a street line, such minimum front yard depth shall be the average setback of such existing buildings, but in no case less than 80 feet from a street line. The front yard depth of lots located on the inside part of a curve shall be measured from the nearest point of the cord connecting the arc establishing the front line of the lot to the main building line. This provision is for the purpose of establishing suitable front yards.
- B. Side yard width shall be five feet. Buildings, the exterior walls of which are constructed of noncombustible material, may be erected on lot lines where the adjoining property is classified as industrial or commercial district and a means of ingress to and egress from the rear parking and loading areas is provided. On corner lots no buildings shall be nearer than 50 feet to the side line of the lot abutting the side street.
- C. Rear yard depth shall be 60 feet. This provision is for the purpose of establishing suitable loading and unloading areas and of providing suitable off-street parking areas. Rear yards may be reduced, by Planning Board approval, to 30 feet if no loading or unloading occurs in this area.<sup>28</sup>
- D. Buffer zones. **[Added 2-2-2000 by L.L. No. 1-2000]**
  - (1) When any new building, addition to an existing building or structure is proposed to be erected on any land in this district which abuts any property zoned residential, before any building permit may be issued, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, a site plan showing a minimum of a fifty-foot buffer zone on the applicant's property along the boundary of the applicant's property and any property zoned residential.
  - (2) The intent of the buffer zone is to provide for a visual and, where appropriate, a sound buffer between the residential property and the applicant's property. The Planning Board may require the applicant to landscape such area and construct berms, fences or other appropriate barriers to provide for such buffer. The applicant, prior to commencing any construction on the site, shall post with the Town of Henrietta a letter of credit or other security in a form acceptable to the Town in an amount sufficient to insure the installation of such materials and plantings as the Planning Board determines necessary. In the case of any landscape material, the applicant shall provide a maintenance guaranty in a form acceptable to the Town in addition to the security or letter of credit set out above for the replacement of any landscaping material that dies within the first two years of planting of said materials.
  - (3) The applicant, in its submission to the Planning Board, shall provide the Planning Board and the Engineering Department of the Town of Henrietta with such plans as are necessary to show the natural and established flow of surface water and the anticipated flow of water after construction and, where necessary, shall provide for, at the applicant's cost, the installation of swales, catch basins, storm drains,

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28. Editor's Note: Adoption of amendments pending.

detention or retention ponds and such other methods of controlling the surface water as deemed necessary by the Planning Board and the Engineering Department.

- (4) The maintenance of the buffer zone shall be the responsibility of the owner of the property, and failure to maintain the buffer zone shall be subject to enforcement by issuance of an appearance ticket provided under Chapter 25, Appearance Tickets, of the Code of the Town of Henrietta.
- E. Before any building permit may be issued for new buildings or structures in any industrial district, the applicant shall submit to the Planning Board, and obtain the approval of such Board on, plans with reference to shrubbery and landscaping and plans showing construction materials and lighting to be used so as to provide suitable construction materials and architectural designs in harmony with the character of the neighborhood. The applicant shall also submit to the Planning Board and obtain approval of all plans for parking of vehicles. Employee parking shall be generally in rear yards; customer parking only shall be normally permitted in front yards; and no docks or unloading platforms or facilities shall be placed in the front of any building.

## ARTICLE IX

### PUD Planned Unit Development Districts

#### § 295-29. Statement of intent; objectives.

##### A. Intent.

- (1) it is the intent of this article to provide flexible land use and design regulations through the use of performance criteria so that small- to large-scale neighborhoods or portions thereof may be developed within the Town which incorporate a variety of residential types and nonresidential uses and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or other common property in order to function as a neighborhood. This article specifically encourages innovation in residential development so that the growing demands for housing at all economic levels may be met by a greater variety in type, design and siting of dwellings and by the conservation and more efficient use of land in such developments.
- (2) This article recognizes that, while the standard zoning function (use and bulk) and the subdivision function (platting and design) are appropriate for the regulation of land use in areas or neighborhoods which are already substantially developed, these controls represent a type of preregulation, regulatory rigidity and uniformity which may be inimical to the techniques of land development contained in the planned unit development concept. Further, this article recognizes that a rigid set of space requirements along with bulk and use specifications would frustrate the application of this concept. Thus, where planned unit development techniques are deemed appropriate through the rezoning of land to a planned unit development district by the Town Board, the set of use and dimensional specifications elsewhere

in this chapter are herein replaced by an approval process in which an approved plan becomes the basis for continuing land use controls.

B. Objectives. In order to carry out the intent of this article, a planned unit development shall achieve the following objectives:

- (1) A maximum choice in the types of environment, occupancy tenure (for example, cooperatives, individual ownership, condominium or leasing), types of housing, lot sizes and community facilities available to existing and potential Town residents at all economic levels.
- (2) More suitable open space and recreation areas.
- (3) More convenience in location of accessory commercial and service areas.
- (4) The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion.
- (5) A creative use of land and related physical development which allows an orderly transition of land from rural to urban uses.
- (6) An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs.
- (7) A development pattern in harmony with the objectives of the Comprehensive Land Use Plan.
- (8) A more desirable environment than would be possible through the strict application of other articles of this chapter.

**§ 295-30. General requirements.**

- A. Minimum area. Under normal circumstances, the minimum area required to qualify for a planned unit development district shall be 150 contiguous acres of land. Where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article, the Town Board may consider projects with less acreage.
- B. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of individuals or corporations. An application must be filed by the owner or jointly by owners of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners. Leaseholds shall be for a period of at least 50 years. All approved plans shall be binding on all successors of the applicants.
- C. Location of planned unit development district. The planned unit development district shall be applicable to any area of the Town whose characteristics meet the objectives of this article. PUD Districts may be designated by the Town acting independently or on the basis of an application. In either case, compatibility with the Comprehensive Land Use Plan will be considered.

- D. Permitted uses. All uses within an area designated as a planned unit development district are determined by the provisions of this section and the approved plan of the project concerned.
- (1) Residential uses. Residences may be any of a variety of types. In developing a balanced community, the use of a variety of housing types shall be deemed most in keeping with this article. However, at least 30% of the total number of dwelling units constructed within any planned unit development shall be in single-family detached structures.
  - (2) Accessory commercial, service and other nonresidential uses. Commercial, service and other nonresidential uses may be permitted or required where such uses are scaled primarily to serve the residents of the planned unit development. The following proportions are deemed to be in keeping with this intent under normal circumstances:
    - (a) Where the planned unit development contains 100 or more dwelling units, a maximum of 2,400 square feet of floor area for every 100 dwelling units may be used for limited commercial and/or service uses. Such commercial or service areas may be in separate buildings or incorporated within two-family or multifamily structures or in suitable combinations of these alternatives.
    - (b) Where the planned unit development contains 500 or more dwelling units, a maximum of two acres of land for every 100 dwelling units may be used for commercial and/or service purposes, including parking.
    - (c) Where the planned unit development contains 1,000 or more dwelling units, five acres of land for each 100 dwelling units may be used for compatible industry, including parking, in addition to the permitted commercial and service uses.
  - (3) Customary accessory or associated uses, such as private garages, storage spaces, recreational and community activities, churches and schools, shall also be permitted as appropriate to the planned unit development.
- E. Intensity of land use. Because land is used more efficiently in a planned unit development, improved environmental quality can often be produced with a greater number of dwelling units per gross building acre than usually permitted in traditionally zoned districts. The Town Board shall, after recommendation from the Planning Board, establish in each case the appropriate land use intensity or dwelling unit density for individual projects. The determination of land use intensity ratings or dwelling unit densities shall be completely documented, including all facts, opinions and judgments justifying the selection of the rating or density.
- F. Common property in the planned unit development. Common property in a planned unit development is a parcel or parcels of land, together with improvements thereon, the use and enjoyment of which are shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance

of such common property and facilities, including private streets, drives, service and parking areas and recreational and open space areas, and following procedures approved by the New York State Attorney General. Responsibility for ownership and maintenance of all open space and recreational facilities must be explicitly stated.

**§ 295-31. Application and approval procedure for development.**

- A. General. Whenever any planned unit development is proposed, before any permit for the erection of a permanent building in such planned unit development shall be granted and before any subdivision plat or any part thereof may be filed in the office of the Monroe County Clerk, the developer or his authorized agent shall apply for and secure approval of such planned unit development in accordance with the following procedures.
- B. Application procedure for concept plan approval.
  - (1) In order to allow the Town authorities and the developer to reach an understanding on basic design requirements prior to detailed design investment, the developer shall submit a sketch plan of his proposal to the Town Board. The sketch plan shall be approximately as indicated to scale, though it need not be to the precision of a finished engineering drawing, and it shall clearly show the following information:
    - (a) The location of the various uses and their areas in acres.
    - (b) The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.
    - (c) Delineation of the various residential areas, indicating for each such area its general extent, size and composition in terms of total number of dwelling units, approximate percentage allocation by dwelling unit type (i.e., single-family detached, duplex, townhouse, garden apartments, high-rise, etc.) and general description of the intended market structure (i.e., luxury, middle-income, moderate-income, elderly units, family units, etc.), plus a calculation of the residential density in dwelling units per gross acre (total area, including interior roadways) for such area.
    - (d) The interior open space system. Only usable land shall be considered for such purposes.
    - (e) The overall drainage system concept.
    - (f) If grades exceed 3% or portions of the site have a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding, a topographic map showing contour intervals of not more than five feet of elevation shall be provided along with an overlay outlining the above susceptible soil areas, if any. (Note: Maps showing soil areas and classification for the towns of Monroe County have been prepared by the Monroe County Department of Planning and the Soil Conservation Service. These maps designate general soil characteristics and are available for inspection at the Town Hall and the County Office Building. Where a

potentially significant development problem exists, a special on-site investigation should be conducted.)

- (g) Principal ties to the community at large, with respect to transportation, water supply and sewage disposal and solid waste disposal.
  - (h) General description of the provisions of other community facilities, such as schools, fire protection services and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
  - (i) A location map showing uses and ownership of abutting land and those within 300 feet.
- (2) In addition, the following documentation shall accompany the sketch plan:
- (a) Evidence of how the developer's particular mix of land uses meets existing community demands.
  - (b) Evidence that the proposal is compatible with the goals of the Official Comprehensive Land Use Plan.
  - (c) A general statement as to how common open space is to be owned and maintained.
  - (d) If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the intended total project.
  - (e) Evidence of any sort in the applicant's own behalf to demonstrate his technical and financial competence to carry out the plan and his awareness of the scope of such a project.
- (3) Community and environmental impact statement. The applicant shall submit two copies of a community and environmental impact statement with the application, said statement to be in compliance with Part 617, State Environmental Quality Review Act (SEQRA), the Freshwater Wetlands Act<sup>29</sup> and associated local laws enacted from time to time by the Town of Henrietta.<sup>30</sup>
- (4) The Town Board shall refer the concept plan and its related documents to the Planning Board or, in the event there is no Planning Board, to the independent professional planning consultant for review. The Planning Board or such planning consultant, as the case may be, shall render either a favorable or an unfavorable report to the Town Board and a copy to the applicant. The reviewers may call upon the County Department of Planning, the Soil Conservation Service and any other public or private consultants that they feel is necessary to provide a sound review of the proposal.

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29. Editor's Note: See Environmental Conservation Law §§ 8-0101 et seq. and 24-0101 et seq., respectively.

30. Editor's Note: See Ch. 103, Environmental Quality Review.



- (a) A favorable report shall include a recommendation to the Town Board that a public hearing be held for the purpose of considering planned unit development districting. It shall be based on the following findings, which shall be included as part of the report:

- [1] That the proposal conforms to the Comprehensive Land Use Plan.
- [2] That the proposal meets the intent and objectives of the planned unit development, as expressed in § 295-29.
- [3] That the proposal meets all the general requirements of § 295-30.
- [4] That the proposal is conceptually sound in that it meets a community need and it conforms to accepted design principles in the proposed functional roadway system, land use configuration, open space system, drainage system and scale of the elements, both absolutely and to one another.
- [5] That there are adequate services and utilities available or proposed to be made available in the construction of the development.

- (b) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what might be necessary in order to receive a favorable report. The applicant may, within 10 days after receiving an unfavorable report, file an application for planned unit development districting with the Town Board. The Town Board may then determine on its own initiative whether or not it wishes to call a public hearing.

- (5) The Chairman of the Planning Board acting with Planning Board approval or the planning consultant, as the case may be, shall certify when all of the necessary application material has been presented, and the Planning Board or such planning consultant shall submit its report within 60 days of such certification. If no report has been rendered after 60 days, the applicant may proceed as if an unfavorable report were given to him.

C. Application for planned unit development districting.

- (1) Upon receipt of a favorable report from the reviewer or upon its own determination subsequent to an appeal from an unfavorable report, the Town Board shall set a date for and conduct a public hearing for the purpose of considering planned unit development districting for the applicant's plan, in accordance with the procedures established under §§ 264 and 265 of the Town Law or other applicable law, said public hearing to be conducted within 45 days of the receipt of the favorable report or the decision on appeal from an unfavorable report.
- (2) The Town Board shall refer the application to the County Planning Council for its analysis and recommendations, and the Town Board shall also refer the application to the Director of Engineering and Planning for his review.

- (a) The Town Board shall give the County Planning Council at least 30 days to render its report, and within 45 days after the public hearing, the Town Board shall render its decision on the application.
- (b) The Director of Engineering and Planning shall submit a report to the Town Board within 30 days of the referral, duly noting the feasibility and adequacy of those design elements under his sphere of interest. This report need only concern itself with general conceptual acceptance or disapproval, as the case may be, and in no way implies any future acceptance or rejection of detailed design elements as will be required in the later site plan review stage. The Director of Engineering and Planning may also state in his report any other conditions or problems that must be overcome before consideration of acceptance on his part.

D. Zoning for planned unit developments.

- (1) If the Town Board grants the planned unit development districting, the Zoning Map shall be so notated. The Town Board may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements for the applicant to meet. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services, such as schools, firehouses and libraries, protection of natural and/or historic sites and other such physical or social demands. The Town Board shall state at this time its findings with respect to the land use intensity or dwelling unit density as called for in § 295-30E.
- (2) Planned unit development districting shall be conditional upon the following:
  - (a) Securing of final site plan approval in accordance with the procedures set forth in § 295-32.
  - (b) Compliance with all additional conditions and requirements as may be set forth by the Town Board in its resolution granting the planned unit development district.

**§ 295-32. Site plan approval.**

- A. Application for preliminary site plan approval. Application for preliminary site plan approval shall be to the Planning Board or to the planning consultant, as the case may be, and shall be accompanied by the following information prepared by a licensed engineer, architect and/or landscape architect:
  - (1) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration and all properties, subdivisions, streets and easements within 500 feet of the applicant's property.
  - (2) A topographic map showing contour intervals of not more than five feet of elevation.

- (3) A preliminary site plan, including the following information:
  - (a) Title of drawing, including the name and address of the applicant.
  - (b) North arrow, scale and date.
  - (c) Boundaries of the property plotted to scale.
  - (d) Existing watercourses.
  - (e) A site plan showing the location, proposed use and height of all buildings and the location of all parking and truck loading areas, with access and egress drives thereto; location and proposed development of all open spaces, including parks, playgrounds and open reservations; location of outdoor storage, if any; location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences; description of method of sewage disposal, water supply and location of such facilities; location and size of all signs; location and proposed development of buffer areas; location and design of lighting facilities; and the amount of building area proposed for nonresidential uses, if any. (Note: All methods of sewage disposal must conform to the Monroe County Pure Waters Master Plan and meet all other state and county requirements.)
- (4) A tracing overlay showing all soil areas and their classifications, depth to bedrock and those areas, if any, with moderate to high susceptibility to flooding and moderate to high susceptibility to erosion. For areas with potential erosion problems the overlay shall also include an outline and description of existing vegetation.

B. Factors for consideration.

- (1) The review of a preliminary site plan shall include, but is not limited to, the following considerations:
  - (a) The arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization structures and traffic controls.
  - (b) The arrangement of pedestrian traffic access and circulation, including separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian convenience.
  - (c) Location, arrangement, appearance and sufficiency of off-street parking and loading.
  - (d) Location, arrangement, size and design of buildings, lighting and signs.
  - (e) Relationship of the various uses to one another and their scale.
  - (f) Type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise-deterring buffer between adjacent uses and adjoining lands.

- (g) In the case of apartment houses or multiple dwellings, the acreage of usable open space for playgrounds and informal recreation.
  - (h) Proposed stormwater and sanitary waste disposal facilities.
  - (i) Proposed structures, roadways and landscaping in areas with moderate to high susceptibility to flooding and ponding and/or erosion.
  - (j) Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
  - (k) Conformance with other specific charges of the Town Board which may have been stated in the zoning resolution.
  - (l) The general standard for the setback of residential buildings from the property line shall be 30 feet. However, the Planning Board may require greater or lesser setbacks for specific circumstances.
- (2) The reviewer may consult with the Director of Engineering and Planning and other Town and county officials, as well as with representatives of federal and state agencies, including the Soil Conservation Service and the New York State Department of Environmental Conservation. The reviewer may require that exterior design of all structures is made by, or under the direction of, a registered architect, whose seal shall be affixed to the plans, and may require such additional provisions and conditions as appear necessary for the public health, safety and general welfare. **[Amended 6-20-2001 by L.L. No. 3-2001]**

C. Action on preliminary site plan application.

- (1) Within 62 days of the receipt of the application for preliminary site plan approval, the Planning Board or such planning consultant shall act on it. If no decision is made within said sixty-two-day period, the preliminary site plan shall be considered conditionally approved. The reviewer's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is conditionally approved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report. **[Amended 6-20-2001 by L.L. No. 3-2001]**
- (2) The statement may include recommendations as to desirable revisions to be incorporated in the final site plan, the conformance with which shall be considered a condition of approval. Such recommendations shall be limited, however, to siting and dimensional details within general use areas and shall not significantly alter the sketch plan as it was approved in the zoning proceedings.
- (3) If the preliminary site plan is disapproved, the reviewer's statement shall contain the reasons for such findings. In such case, the reviewer may recommend further study of the site plan and resubmission of the preliminary site plan after it has been revised or redesigned. No modification of existing stream channels, filling of lands with a moderate to high susceptibility to flooding, grading or removal of vegetation in areas with moderate to high susceptibility to erosion nor excavation for and construction of site improvements shall begin until the developer has received preliminary site plan approval. Failure to comply shall be construed as a

violation of this chapter, and, where necessary, final site plan approval may require the modification or removal of unapproved site improvements.

- D. Request for changes in sketch plan. If in the site plan development it becomes apparent that certain elements of the sketch plan, as it has been approved by the Town Board, are unfeasible and in need of significant modification, the applicant shall then present his solution to the Planning Board or planning consultant as his preliminary site plan in accordance with the above procedures. The reviewer shall then determine whether or not the modified plan is still in keeping with the intent of the zoning resolution. If a negative decision is reached, the site plan shall be considered as disapproved. The developer may then, if he wishes, produce another site plan in conformance with the approved sketch plan. If an affirmative decision is reached, the reviewer shall so notify the Town Board, stating all of the particulars of the matter and its reasons for feeling the project should be continued as modified. Preliminary site plan approval may then be given only with the consent of the Town Board.
- E. Application for final detailed site plan approval.
  - (1) After receiving conditional approval on a preliminary site plan as outlined above and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final detailed site plan and submit it to the Planning Board or planning consultant for final approval, except that if more than 12 months have elapsed between the time of the reviewer's report on the preliminary site plan and if such reviewer finds that conditions have changed significantly in the interim, the applicant may be required to resubmit the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.
  - (2) The final detailed site plan shall conform substantially to the preliminary site plan which has received preliminary site plan approval. It should incorporate any revisions or other features which may have been recommended at the preliminary review. All such compliances shall be clearly indicated by the applicant or the appropriate submission.
  - (3) The project engineer shall submit to the Director of Engineering and Planning engineering data to substantiate the adequacy of all utilities as set forth in Subsection B(1)(a), (b), (f), (g), (h) and (i) of the site plan approval process for final site plan review.
  - (4) The project engineer shall submit to the Director of Engineering and Planning final grading plans prepared from contour maps on information actually obtained by field data, showing contour intervals of not less than two feet of elevation of existing topography, and with final proposed contour overlay.
- F. Action on the final site plan application. Within 62 days of the receipt of the application for final site plan approval, the Planning Board or planning consultant shall render a decision to the applicant and so notify the Town Board. If no decision is made within the sixty-two-day period, the final site plan shall be considered disapproved. **[Amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**

- (1) Upon approving an application, the Planning Board or planning consultant shall endorse its approval on a copy of the final site plan and shall forward it to the Town Board for delivery to the Fire Marshal/Building Inspector, who shall then issue a building permit to the applicant if the project conforms to all other applicable requirements.
  - (2) Upon disapproving an application, the Planning Board or planning consultant shall so inform the Fire Marshal/Building Inspector and shall notify the applicant and the Town Board in writing of such decision and the reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.
- G. Staging. If the applicant wishes to stage his development and he has so indicated as per § 295-31B(2)(d), then he may submit only those stages he wishes to develop for site plan approval, in accordance with his staging plan. Any plan which requires more than 24 months to be completed shall be required to be staged, and a staging plan must be developed. At no point in the development of a planned unit development shall the ratio of nonresidential to residential acreage or the ratios of dwelling units constructed between the several different housing types for that portion of the planned unit development completed and/or under construction differ from that of the planned unit development as a whole by more than 10% from the proportions required.

**§ 295-33. Additional regulations.**

- A. Regulation after initial construction and occupancy. For the purpose of regulating and development and use of property after initial construction and occupancy, any changes shall be processed as a special permit request to the Town Board. It shall be noted, however, that properties lying in planned unit development districts are unique and shall be so considered by the Town Board when evaluating these requests, and maintenance of the intent and function of the planned unit shall be of primary importance.
- B. Site plan review. Site plan review under the provisions of this article shall suffice for review of subdivisions under Chapter 245, Subdivision of Land, subject to the following conditions:
  - (1) The developer shall prepare sets of subdivision plats suitable for filing with the office of the Monroe County Clerk in addition to those drawings required above.
  - (2) The developer shall plat the entire development as a subdivision. However, planned unit developments being developed in stages may be platted and filed in the same stages.
  - (3) Final site plan approval under § 295-32F shall constitute final plat approval under Chapter 245, Subdivision of Land, and provisions of § 276 of the Town Law requiring that the plat be filed with the Monroe County Clerk within 62 days of approval shall apply. **[Amended 6-20-2001 by L.L. No. 3-2001]**

**§ 295-34. Issuance of building permits.**

No building permits shall be issued for construction within a planned unit development district until improvements are installed or a performance bond posted in accordance with the same procedures as provided for in § 277 of the Town Law relating to subdivisions. Other such requirements may also be established from time to time by the Town Board.

## ARTICLE X

**Historic Sites**

**[Amended 6-20-2001 by L.L. No. 3-2001]**

**§ 295-35. Authority; purpose; initiation.**

- A. Authority. The Town Board shall have the authority, in accordance with the procedures and standards hereinafter established, to create and to designate historic sites within the Town and to amend or rescind such designations as from time to time shall seem appropriate.
- B. Purpose. Historic sites may be created in furtherance of the following public purposes, which are hereby found to be in the interest of the health, prosperity and welfare of the Town and its residents:
  - (1) To effect and accomplish the protection, enhancement, perpetuation and use of improvements and areas of special character or special history or aesthetic interest or value which represent or reflect elements of the town's cultural, social, economic, political and architectural history.
  - (2) To safeguard the town's historic, aesthetic and cultural heritage as embodied and reflected in such improvements and areas.
  - (3) To stabilize and improve property values in such areas.
  - (4) To foster civic pride in the beauty and noble accomplishments of the past.
  - (5) To protect and enhance the town's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided.
  - (6) To strengthen the economy of the town.
  - (7) To promote the use of historic sites and landmarks for the education, pleasure and welfare of the people of the town.
- C. Initiation. Proceedings for the designation of historic sites may be initiated by either the Town Board or the Historic Site Committee.

**§ 295-36. Historic Site Committee.**

The Historic Site Committee shall be comprised of seven members, one of whom shall be the Town Historian. Members shall be appointed by the Town Board for terms of four years.

**§ 295-37. Procedure for historic site designation.**

- A. An historic site designation may be proposed by either the Town Board or the Historic Site Committee together with such supporting materials as may seem appropriate for processing in accordance with the provisions of this section.
  - (1) An historic site designation must have the approval of the property owner.
  - (2) The historic site regulations provided herein are intended to preserve historic or architecturally worthy buildings, structures, streetscapes and neighborhoods. In all zoning districts or parts thereof lying within the historic site designation, the regulations for both the zoning district and the historic site shall apply. Wherever there is a conflict between the regulations of the zoning district and the regulations of the historic site, the more restrictive shall apply.
- B. Public hearing. Upon receipt of the proposal for an historic site designation a public hearing shall be set, advertised and conducted by the Town Board as provided in Article XII of this chapter. The Historic Site Committee shall be present to inform the public about the proposed sites.
- C. Action by Town Board. Within 30 days of the public hearing, after all parties having indicated their agreement to the historic site designation, the Town Board shall direct to be mailed a certificate of designation to each property owner. A copy of each designation shall be given to the Town Clerk and to the Department of the Fire Marshal/Building Inspector. The Department of the Fire Marshal/Building Inspector shall turn over requests for alteration, modifications, new construction or demolition to the Historic Site Committee for plan review. Its findings are sent to the Town Board for final approval.  
[Amended 2-15-2006 by L.L. No. 1-2006]

**§ 295-38. Standards for designation of historic sites or preservation districts.**

A property shall be considered for designation if at least two of the following factors are provided:

- A. The presence of special historical interest relating to local, state or national history.
- B. The presence of special character or aesthetic interest or value caused by the development pattern of the area or by natural, landscaping or topographical features of the area.
- C. The presence of one or more periods or styles of architecture typical of one or more eras in the history of the Town which gives the area a distinct character.
- D. The concentration of indigenous examples of local architecture which have not been significantly altered from their original design and which have a uniform scale and derive special value from the repetition of scale and form.
- E. The presence of one or more distinguished buildings of high architectural quality and historic interest.



**§ 295-39. Alterations, modifications or new construction.**

- A. All modification, alteration or new construction within an historic site is subject to a plan review by the Historic Site Committee prior to issuance of a building permit or construction if no building permit is required.
  - (1) Substantial modification, alteration or new construction shall be construed to include any changes that affect the visual quality of the site, including sizes, particularly from a public street. Normal maintenance and exterior painting are specifically excluded from these provisions, but normal exterior maintenance must conform to the original standards of the period as determined by the Historic Site Committee.
  - (2) Interior changes are left to the discretion of the property owner and are excluded from these provisions.
- B. Plan review within historic sites shall include, but is not necessarily restricted to, all items relating to the exterior facade of the structure, substantial changes in landscaping or street features, such as fencing and walls, and the addition of any structure or sign that changes the view of the existing building, particularly from a public street.
- C. Within 30 days of the receipt of application for plan review, the Historic Site Committee shall forward a recommendation to the Town Board. The Town Board shall render a determination thereon.
- D. Approval or disapproval.
  - (1) A project that has received approval will be issued a building permit and construction begun under the regulations set forth under Chapter 48, Building and Development, of this Code. The building permit shall outline any conditions that should be observed, and nonobservance of these conditions is in violation of this Code.
  - (2) A project that has received disapproval shall not be issued a building permit.

**§ 295-40. Demolition regulations for historic sites.**

Prior to the issuance of a demolition permit for any structure within a designated historic site, the following procedures shall be followed:

- A. The application for such permit to the Department of the Fire Marshal/Building Inspector shall be referred to the Historic Site Committee for review. The Committee shall forward a recommendation to the Town Board within 30 days. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- B. Within 60 days of such application, the Town Board shall hold a public hearing in accordance with the procedures for such hearing as set forth in Article XII of this chapter.
- C. The Town Board shall consider such application for a demolition permit based upon the following factors:

- (1) The historical, architectural, educational and general value of the structure.
  - (2) The importance of the structure to the historic site as a whole and other nearby buildings of historic note.
  - (3) The potential for developing alternatives that will permit the saving of the structure.
  - (4) The economic value and importance of both preservation and demolition.
- D. Approval or disapproval. A project that has received Town Board approval will be issued a demolition permit.<sup>31</sup>

## ARTICLE XI

### Miscellaneous Regulations

#### **§ 295-41. Fences in residential districts. [Amended 10-7-1992<sup>32</sup> ]**

- A. Fences shall be of permanent construction, such as ornamental iron or pickets (iron or wood), and shall not exceed three feet in height if erected in the front yard. Fences erected elsewhere on the lot shall not exceed six feet zero inches.
- B. So-called "patio" or "privacy" fences shall not be restricted by the height limitation of this section and may exceed six feet zero inches in height, provided that they otherwise comply with all applicable ordinances and regulations and provided that the fence must be either attached or affixed to the house or at least one end of the fence shall be within eight feet of the main wall of the house; it shall be in the rear of the house; it shall have no side exceeding 24 feet in length; it shall have no side nearer than 10 feet to any existing lot line; it shall have no more than four sides; and it shall not exceed eight feet in height.
- C. The provisions of this section shall not apply to hedges or fences on premises used exclusively for farm purposes.
- D. Swimming pool fences shall be as required by § 295-49, notwithstanding the provisions of this section.
- E. The face or finished side of any fence erected shall face the nearest abutting property. All posts or supports shall be on the inside of said fence unless said posts or supports constitute an integral part of the face of the finished side.
- F. Fences shall not be placed within any municipal easement.
- G. Fences shall be placed a minimum of 12 inches inside of the subject property line.
- H. Replacement. Any fence that is replaced after [insert date of adoption of amendment] shall be subject to these requirements.

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31. Editor's Note: Amendments pending adoption.

32. Editor's Note: Amendments pending adoption.

- I. Placement of a fence is the sole responsibility of the property owner.

**§ 295-42. Animals in residential districts.**

- A. In any residential district no lot may be used or occupied and no structure may be erected, maintained or used for the raising or harboring of pigeons, swine, goats, rabbits, cows, horses, poultry, foxes, mink, skunk or other fur-bearing animals, unless application is made to and a special permit is granted by the Town Board, subject to such terms and conditions as may be appropriate in the particular case and in conformity with the provisions of Article XII and the following general provisions. The Board may consider, where it is material in each case and among the other relevant factors, the following:
- (1) Any danger to neighboring property.
  - (2) Noise or offensive emission of odors or fumes.
  - (3) Any detriment to the health, safety, morals or the general welfare of the community.
  - (4) Whether such use is appropriate to the particular location.
- B. Notwithstanding the foregoing, nothing herein contained shall prohibit the raising or harboring of domestic animals or poultry on any farm within the Town of Henrietta within the definition of the term "farm."
- C. Dogs and cats are exempt from these provisions, provided there are not more than three of such animals, unless application is made to and a special permit is granted by the Town Board to harbor or kennel dogs and cats as foster care or rescued animals.<sup>33</sup>

**§ 295-43. Required lot area in residential districts.**

In any residential district, the lot width and depth is regulated as provided in § 295-10. In no case, however, shall the size of the lot be smaller than the area necessary for adequate and sufficient individual sewage disposal and the safe location of water wells, where needed.

**§ 295-44. Off-street parking.**

- A. The following parking spaces shall be provided and satisfactorily maintained by the owner of the property for each building hereafter erected, enlarged or altered for use for any of the following purposes:<sup>34</sup>

Use	Minimum Number of Parking Spaces Required
Animal hospital or "doggie day care"	1 per 200 square feet of floor area, with a maximum of 10

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33. Editors' Note: Adoption of amendments pending.

34. Editor's Note: Amendments pending adoption.

<b>Use</b>	<b>Minimum Number of Parking Spaces Required</b>
Auto repair or service facility	1 per 400 square feet of floor area
Banking facility, with drive-through	1 per 155 square feet of floor area
Convenience store	1 per 200 square feet of floor area or 10 maximum, not including cars parked at gas pumps
Day-care facility	1 per 5 enrolled children
Dwelling	2 1/2 for each dwelling unit in the building or buildings
Funeral home	1 per 50 square feet of floor area
Garden nurseries, exterior	5 per acre of outdoor display area
Hospital	1 for each 5 patients
Hotel	1 per hotel room, plus 1 for each 2 employees
Industrial or manufacturing establishment	1 for each 400 square feet of gross floor area or for each 3 workers, whichever provides the greater amount of parking space
Medical, dental or urgent care facility	1 per 200 square feet of floor area
Office building	1 for each 300 square feet of office floor area
Restaurant or other eating place	1 for each 3 seats, plus 1 for each 2 employees
Restaurant, fast-food, with drive-through	1 per 120 square feet of floor area
Senior housing, continued care retirement community, nursing home, senior citizen residential community and senior living care facility	1 per 1.8 residents
Store	1 for each 200 square feet of store floor area and 1 for each 2 employees
Theater, church or other place of public assemblage	1 for each 2 seats, based on maximum seating capacity

- B. All parking spaces provided pursuant to this section shall be on the same lot with the building, except that the Town Board may permit the parking spaces to be on any lot within 500 feet of the building if it determines that it is impractical to provide parking on the same lot with the building.
- C. Any off-street parking area, except for a single-family dwelling, for more than five vehicles which adjoins or faces a residential district shall be effectively screened by shrubs, hedges, plantings or fencing as may be approved by the Town Planning Board.

- D. All parking areas shall be properly graded and drained so as to dispose of all surface water accumulation in a safe and lawful manner without draining stormwater to neighboring property.
- E. No parking areas will be allowed within the front, rear or side setbacks of any multiple dwelling.
- F. Parking areas shall have a minimum aisle width of 15 feet for one-way traffic and 24 feet for two-way traffic. The minimum parking space shall be nine feet in width and 18 feet in length for ninety-, sixty- and forty-five-degree parking or 10 feet in width and 20 feet in length for parking parallel to the aisle. **[Amended 4-6-2005]**
- G. There shall be adequate ingress and egress to all parking areas.
- H. Any parking area which is to be used during nondaylight hours shall be properly illuminated with fixtures and locations approved by the Planning Board.

**§ 295-45. Dumping of refuse and other substances.**

Dumping refuse, garbage and other substances is prohibited in all districts in the town.

**§ 295-46. Existing uses.**

The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform to the provisions of this chapter.

**§ 295-47. Nonconforming uses. [Amended 6-20-1990]**

- A. No building damaged by fire or by an act of God to the extent of more than 50% of its true value shall be repaired or rebuilt, except in conformity with the regulations of this chapter, except one- and two-family dwellings shall be permitted to be rebuilt regardless of current zoning classification. Nothing in this chapter shall prevent the replacement of any structural member to ensure the safety of a building. If a request is made to use the existing foundation, or a part thereof, written documentation from a licensed structural engineer approving this use must be presented to the Town prior to a permit being issued. Whenever a nonconforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this chapter. No nonconforming use shall be extended to displace a conforming use.<sup>35</sup>
- B. Notwithstanding any provisions of the preceding subsection, upon special permit of the Town Board as set forth below, a public garage, gasoline filling station, motor vehicle service supply station, motor vehicle showroom or sale or service facility located on any parcel of land which was used or built for such a purpose at the adoption of this amendment may be reconstructed, replaced, reinstated, modified or demolished and rebuilt within one year of demolition. Special permit for the above may be granted only

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35. Editor's Note: Amendments pending adoption.

by the Town Board of the Town of Henrietta after a public hearing as provided in Article XII and in accordance with the procedures set forth in Article XII of this chapter and further upon the requirements set forth in § 295-48 of this chapter for gasoline service stations and motor vehicles service and supply stations.

**§ 295-48. Special provisions for service stations.**

- A. On premises used as gasoline filling stations or for motor vehicle service or supply stations, no portion of any building shall be closer than 80 feet to the front property line or closer than 60 feet to the rear property line or closer than 20 feet to the side property line, and the maximum width of approach driveways to be separated or set off by curb or masonry shall not exceed two feet in height. All signs, structures bearing lights or lighting facilities shall be set back a minimum of 10 feet from the front property line. Lot size for gas stations shall be at least 200 feet wide and 200 feet deep.
- B. No fuel pump, gasoline pump or island in any gasoline or motor fuel filling station containing the same shall be constructed closer than 35 feet to any street line.
- C. Before granting a special permit or variance for a gasoline station or motor vehicle service or supply station, the Board to which application for such permit is made, in addition to consideration of standards set forth in § 295-53 of this chapter, shall consider and determine the following:
  - (1) That the proposed location is consistent with the public necessity.
  - (2) That the design and type of the proposed structure are in harmony with other structures in such neighborhood. **[Amended 6-20-1990]**
  - (3) That the proposed use will not create a traffic hazard at the proposed location or a hazard from fire or explosion.
  - (4) That the applicant has in writing agreed to construct and operate such proposed station in strict accordance with the provisions of Subsection D of this section. **[Amended 6-20-1990]**
  - (5) That the applicant and the owner have in writing agreed to and, as a condition of approval, shall cause to be recorded deed covenants running with the land in the Monroe County Clerk's office, provided that the applicant shall remove any gasoline storage tanks in accordance with New York State Department of Environmental Conservation regulations (NYCRR Part 613.9 or any successor provisions), the New York State Uniform Fire Prevention and Building Code or any other applicable local, state or federal regulations in effect at the time of closure, and furthermore that the applicant and owner provide an environmental report from a licensed engineer within six months of closure indicating compliance with the aforesaid regulations and that all practicable steps have been taken to assure that the property is free from toxic waste. **[Added 6-20-1990]**
- D. All gasoline or motor vehicle supply stations hereafter erected or maintained pursuant to a special permit or variance issued hereafter shall sell or dispense gasoline to the public

in compliance with approved standards of safety in the handling of gasoline and flammable liquids.

E. Self-service stations.

- (1) A self-service station shall mean all or that portion of the property where flammable and combustible liquids used as motor fuel are stored and subsequently dispensed into the fuel tank of motor vehicles by persons other than the service station attendant.
- (2) Each self-service station shall have a qualified attendant on duty whenever the station is open for business. It shall be the responsibility of the qualified attendant to control and operate remote pumping equipment. Class I liquids shall at no time be dispersed without the direct supervision of the qualified attendant.
- (3) A control shall be provided that will permit the pump to operate only when a dispensing nozzle is removed from its bracket on the dispensing unit and the switch for this dispensing unit is manually actuated. This control shall also stop the pump when all nozzles have been returned to their brackets.
- (4) Each self-service station shall have the remote dispensing equipment situated in such a manner as to give the qualified attendant controlling said equipment an optimum view of the dispensing of Class I liquids.
- (5) Class I liquids may be dispensed only by customers possessing a valid motor vehicle operator's license.
- (6) Self-service stations shall provide fire control devices as prescribed by Section 16.792 of the American Insurance Association Fire Prevention Code and the Fire Marshal of the Town of Henrietta.

F. No application for area variances related to a gasoline filling station or motor vehicle service and supply station shall be approved by the Zoning Board of Appeals unless and until the appropriate Board has granted special permit or variance relief establishing the legality of the use. [Added 6-20-1990]<sup>36</sup>

**§ 295-49. Residential outdoor swimming pools. [Amended 2-15-2006 by L.L. No. 1-2006<sup>37</sup>]**

- A. Private swimming pools. Outdoor swimming pools shall be permitted only in the rear yards of residential lots. A permit for such pool shall be obtained from the Fire Marshal/Building Inspector. Such pool shall comply with residential setback regulations applicable to the lot. The permit shall not be issued unless the applicant shall submit plans providing for a protective fence at least four feet high, but not higher than six feet, and at least 10 feet from the pool enclosing said pool on all sides, with an access gate that is equipped with a lock. Such gate shall be locked when the pool is not in use. The

36. Editor's Note: Original § 48, Wrecked or unlicensed vehicles, which immediately followed this subsection, was deleted 6-20-2001 by L.L. No. 3-2001. See now Ch. 205, Property Maintenance, § 205-12, Wrecked or unlicensed vehicles.

37. Editor's Note: Amendments pending adoption.

pool shall be so constructed so as not to interfere with sewage, water or drainage of the lot or of other lands. In accordance with Chapter 236, Stormwater Management, dechlorinated water drained from the pool shall be discharged only into storm sewers or by other means not detrimental to other property. Lighting shall not be directed at neighboring property. The water of such pools shall be maintained at all times in a sanitary condition in accordance with the bacterial standards of the Sanitary Code of the State of New York and the Property Maintenance Code of New York State. The pool, fence, gate and drains must be constructed as required by this section and the New York State Uniform Fire Prevention and Building Code.

- B. Public swimming pools. For swimming pools operated in connection with an apartment, a hotel or motel or otherwise available for public use, a site plan, including fencing and all safety features, shall be required and approved by the Planning Board prior to issuance of a building permit. The pool shall be required to be attended by a lifeguard when in use.

#### **§ 295-50. Special permit uses.**

In any commercial or industrial district, any use which would otherwise be permitted without obtaining a special permit shall be allowed only after obtaining a special permit from the Town Board in accordance with the procedures set forth in Article XII of this chapter, if the premises where such use is proposed is within 500 feet of premises owned by a school, college, university or other educational institution or within 500 feet of premises occupied and used exclusively for educational or religious purposes. The five-hundred-foot distance shall be measured on a straight line between the nearest boundaries of the respective premises.

#### **§ 295-51. Communication towers. [Added 4-16-1997]**

- A. Legislative intent. The Town of Henrietta recognizes the increased demand for wireless communications transmitting facilities and the need for the services they provide. Often these facilities require the construction of a communications tower. The intent of this section is to protect the town's interest in siting towers in a manner consistent with sound land use planning by minimizing visual effects of towers through careful design, siting and vegetative screening, avoiding potential damage to adjacent properties from tower failure or falling debris through engineering and careful siting of tower structures and maximizing use of any new or existing tower and encouraging the use of existing buildings and/or structures to reduce the number of towers needed, while also allowing wireless service providers to meet their technological and service objectives for the benefit of the public.
- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ACCESSORY STRUCTURE** — An accessory facility or structure serving or being used in conjunction with a telecommunications facility or tower and located on the same lot as the telecommunications facility or tower. Examples of such structures include utility or transmission equipment, storage sheds or cabinets.



**ANTENNA** — A system of electrical conductors that transmit or receive radio frequency signals. Such signals shall include but not be limited to radio, television, cellular, paging, PCS and microwave communications.

**COLOCATED ANTENNAS** — Telecommunications facilities which utilize existing towers, buildings or other structures for placement of antenna(s) and which do not require construction of a new tower.

**TELECOMMUNICATIONS FACILITIES** — Towers and/or antennas and accessory structures used in connection with the provision of cellular telephone service, personal communications services (PCS), paging services, radio and television broadcast services and similar broadcast services.

**TOWER** — A structure designed to support antennas. It includes, without limit, freestanding towers, guyed towers, monopoles and similar structures which employ camouflage technology.

C. Approvals required for telecommunications facilities.

(1) Permits required.<sup>38</sup>

- (a) All telecommunications facilities require approval by the Planning Board prior to construction or colocation.
- (b) In the event that a telecommunications facility is proposed to be located on a structure/building, or an accessory structure associated with the telecommunications facility is proposed, a building permit issued by the Building and Fire Prevention Department will be required, but only after having been reviewed and approved by the Planning Board. Exception: one- and two-family homes and townhouses.

(2) Colocated antennas. Telecommunications facilities comprised of colocated antennas utilizing existing buildings or structures other than towers shall be permitted in any district upon the issuance of a building permit. Colocated antennas on existing towers shall be permitted in any district upon the granting of site plan approval by the Planning Board in accordance with the standards set forth in the Town Code.

(3) New towers. Prior to requesting permission from the Planning Board to construct a new tower, the applicant must satisfy the Planning Board that there is not a technologically feasible and available location on an existing cellular tower or existing high structure or municipal, government-owned or school district property. Telecommunications facilities requiring construction of a new tower also shall be deemed a permitted use in any district, but shall require the following permits and/or approvals:

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38. Editor's Note: Adoption pending.

- (a) On municipal or government-owned property at any height, a tower shall be permitted upon the issuance of a building permit in accordance with the standards set forth in the Town Code.
- (b) In industrial districts where the proposed tower is 150 feet or less in height, or in any nonresidential district where the proposed tower location is more than 1/4 mile from any adjoining residential use and the proposed tower is 150 feet or less in height, site plan approval from the Planning Board shall be required in accordance with the standards set forth in the Town Code.
- (c) In all other districts and locations, telecommunications facilities requiring construction of a new tower shall require, in addition to site plan approval, a tower permit from the Planning Board in accordance with the standards set forth in this section.
  - [1] For each telecommunications facility requiring only a building permit, the applicant shall submit a written application and such other supporting materials as are generally required for such permits under § 295-57 of this chapter.
  - [2] For each telecommunications facility requiring a tower permit, the applicant shall submit a written application for such permit to the Planning Board on a form prescribed by the Planning Board.
  - [3] Each applicant for a telecommunications facility, other than a telecommunication facility requiring only the issuance of a building permit, shall submit an environmental assessment form (long form), with visual addendum, and an analysis demonstrating that location of the telecommunications facility as proposed is necessary to meet the frequency re-use and spacing needs of the applicant's telecommunications system and to provide adequate service and coverage to the intended area. In addition, each applicant shall submit a site plan prepared to scale in sufficient detail and accuracy showing at a minimum:
    - [a] The exact location of the proposed telecommunications facility and/or tower, together with any guy wires and guy anchors, if applicable.
    - [b] The maximum height of the proposed telecommunications facility and/or tower.
    - [c] A detail of tower type (monopole, guyed, freestanding or other).
    - [d] The location, type and intensity of any lighting on the tower.
    - [e] Property boundaries and names of adjacent landowners.
    - [f] Proof of the landowner's consent if the applicant does not own the property.

- [g] The location of all other structures on the property and all structures on any adjacent property within 50 feet of the property lines, together with the distance of those structures to any proposed tower.
- [h] The location, nature and extent of any proposed fencing, landscaping and/or screening.
- [i] The location and nature of proposed utility easements and access road, if applicable.
- [j] A grid or map of all of the applicant's existing telecommunications facility site areas in the Town of Henrietta and site areas proposed or projected by the applicant for installations for a period of two years.

D. Additional requirements and standards.

- (1) The following criteria and additional requirements shall apply to each application for site plan approval for a telecommunications facility:
  - (a) Setbacks. All towers shall be set back from all adjacent property lines a sufficient distance to safeguard the general public and/or adjacent property in order to contain on site substantially all ice fall or debris from tower failure. In the absence of any evidence supporting a greater or lesser setback distance, a setback of the tower from any adjacent residential property line equal to the tower height plus 25 feet and a setback of at least 50 feet from any other adjacent property line shall be deemed adequate. The required setbacks may be decreased in those instances when the applicant has submitted plans for a tower designed to minimize damage to adjacent properties in the event of a structural failure. Accessory structures and guy anchors must comply with the minimum setback requirements of the underlying district.
  - (b) Future shared use of new towers. In the interest of minimizing the number of new towers, the Planning Board may require, as a condition of either site plan or tower permit approval, that the applicant indicate in writing its commitment to colocation of telecommunications facilities and that the applicant will design the tower to have a minimum height and carrying capacity needed to provide future shared usage. The condition for colocation may not be required if the applicant demonstrates that the provisions of future shared usage are not feasible or impose an unnecessary burden based upon the number of Federal Communications Commission (FCC) licenses foreseeably available for the area, the kind of tower site and structure proposed, the number of existing and potential licensees without tower spaces, available spaces on other existing and approved towers and potential adverse visual impacts by a tower designed for shared usage.
  - (c) Aesthetics. Telecommunications facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help

ensure compatibility with surrounding land uses. In order to minimize adverse aesthetic effects on neighboring residences to the extent possible, the Planning Board may impose reasonable conditions on the applicant, including the following:

- [1] Existing on-site vegetation shall be preserved to the maximum extent possible. A tree survey showing all trees of four-inch caliper or greater shall be conducted and mapped and submitted as part of the development plan.<sup>39</sup>
  - [2] The Planning Board may require reasonable landscaping consisting of trees or shrubs to screen the base of the tower and accessory structures to the extent possible from adjacent residential property. All parcels with a tower located thereon shall have a fifty-foot buffer zone planted with such landscaping or other form of buffering as the Planning Board shall reasonably require.
  - [3] The Planning Board may require that the tower be designed and sited so as to avoid, if possible, application of Federal Aviation Administration (FAA) lighting and painting requirements, it being generally understood that towers should not be artificially lighted, except as required by the FAA.
  - [4] The tower shall be of a galvanized finish or painted matte grey unless otherwise required by the FAA, and accessory facilities should maximize use of building materials, colors and textures designed to blend with the natural surroundings.
  - [5] No tower or facility shall contain any advertising signs or advertising devices except signage identifying a health or general welfare message and owner(s) name and contact information intended solely for the protection of the general public.
  - [6] All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment.
- (d) Traffic, access and safety.
- [1] A road turnaround and two parking spaces shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting, and road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
  - [2] All towers and guy anchors, if applicable, shall be enclosed by a fence not less than eight feet in height or otherwise sufficiently secured to protect them from trespassing or vandalism.

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39. Editor's Note: Amendments pending adoption.

- [3] The applicant must comply with all applicable state and federal regulations, including but not limited to FAA and FCC regulations.
  - [4] Upon written request from the town, the applicant shall provide a certification from a qualified, licensed engineer certifying that the tower or telecommunications facility meets applicable structural safety standards.
  - [5] Applicant must provide to the Town an intrusion plan.
- (e) Removal of obsolete/unused facilities. The applicant shall agree, in writing, to remove the tower or antennas if the telecommunications facility becomes obsolete or ceases to be used for its intended purpose for six consecutive months. Removal of such obsolete and/or unused towers or antennas and restoration of the site to its original condition shall take place within six days of receipt of written notice from the Town Board. Such agreement shall also include a commitment by the applicant to impose a similar obligation to remove any unused and/or obsolete tower or antennas upon any person subsequently securing rights to colocate on the tower or telecommunications facility.
- (2) The following criteria and additional requirements shall apply to each application for a tower permit:
- (a) Height. The building height regulations otherwise applicable in the underlying district shall not apply to towers, provided that the applicant submits sufficient information to justify the proposed height as the minimum necessary to achieve its coverage objectives. In no event, however, shall any tower (including those requiring only site plan approval) exceed a height of 250 feet without first obtaining a height variance from the Zoning Board of Appeals.
  - (b) Shared use of existing towers and/or structures. At all times, shared use of existing towers and/or structures, e.g. municipal water tank, buildings, towers, etc., shall be preferred to the construction of new towers. An applicant for a tower permit shall present a report inventorying existing towers within a reasonable distance (two to four miles) of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed new tower. The applicant shall submit documentation demonstrating good faith efforts to secure shared use on existing towers or structures as well as financial reasons why shared usage is not proposed. Written requests for shared use shall be provided where applicable. The applicant shall also demonstrate efforts to locate a new tower on the same site as an existing tower or structure, if it is not colocating on the existing tower or structure. Emergency service use colocated on a tower shall be rent free.
  - (c) The Town may retain technical consultants as it deems necessary to provide assistance in the review of the site location alternative analysis. The service provider shall bear the reasonable cost associated with such consultation,

which cost shall be assessed as an additional application fee. In no case shall the fee be more than 5% of the total project cost as determined for building permit fee assessment purposes.

- E. Annual report. The applicant or its successors or assigns shall file annually with the Town on the second day of January following approval of the telecommunications facility a written report certifying that the applicant or its successors or assigns are complying with its maintenance and inspection procedures and records system and that the telecommunications facility is not a hazard or a threatened hazard to the health and safety of the public.
- F. Exemptions.
  - (1) The following types of telecommunications facilities are not subject to the provisions of this section:
    - (a) Antennas used solely for residential household television and radio reception and involving a structure with a height less than 15 feet above existing grade or, if attached to a structure, 15 feet above the maximum height of the building.
    - (b) Satellite antennas measuring two meters or less in diameter and located in commercial districts and satellite antennas one meter or less in diameter, regardless of location. (Note: FCC rule regarding preemption of local zoning regulations for satellite antennas, 47 CFR Part 25.)
    - (c) Facilities under the control or ownership of and used exclusively by a public or governmental agency.
    - (d) Lawful or approved use and existing prior to the effective date of this section; however, no telecommunications facility shall be modified unless in conformity with this section.
  - (2) In addition, telecommunications facilities may be repaired and maintained without restrictions.

**§ 295-52. Air-supported dome structures. [Added 4-16-1997]**

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:
 

**AIR-SUPPORTED DOME STRUCTURE** — A structural and mechanical system which is constructed of high-strength fabric or film and achieves its shape, stability and support by pretensioning with internal air pressure.
- B. Air-supported dome structures shall be a permitted use in the industrial and industrial/limited commercial districts upon the granting of a special use permit therefore from the Town Board after a public hearing on notice as hereinafter provided in accordance with the procedures set forth in Article XII of this chapter.

- C. Any special permit granting approval for an air-supported dome structure shall include, but not be limited to, the following conditions:
- (1) The proposed dome shall:
    - (a) Be at least one mile from the nearest residential-zoned area.
    - (b) Be at least five miles from the nearest air-supported dome structure.
    - (c) Comply with New York State building and fire codes.<sup>40</sup>
    - (d) Be for recreational use only.
  - (2) The proposed dome must comply with existing height regulations unless otherwise permitted by special permit.
  - (3) Smoking shall be prohibited and adequate signs posted.
  - (4) Any other reasonable condition imposed by the Town Board.
- D. The provisions of this section shall not apply to any lawful or approved air-supported dome structure existing prior to the effective date of this section; however, no air-supported dome structure shall be modified unless in conformity with this section.

**§ 295-52.1. Open space incentive option. [Added 7-20-2005 by L.L. No. 2-2005<sup>41</sup> ]**

In addition to the site analysis requirements, a project which provides permanent open space protection in the subdivision plan may be eligible to utilize the open space incentive option to gain an increase in the total number of lots.

**A. Purpose.**

- (1) The purpose of the open space incentive option is to allow future subdivision in the Rural Residential District in the Town of Henrietta to be creatively designed so that new homes are located in the landscape in a way that protects the rural character of Henrietta, The Town of Henrietta's Rural Development Design Guidelines shall be used to assist the Planning Board and the applicant in understanding appropriate conservation-based subdivision design.
- (2) This option creates an incentive for permanent open space protection, allowing for the protection and enhancement of the rural landscape and natural resources while establishing standards by which the Planning Board may increase the maximum density of the RR-1 and RR-2 Subdistricts in return for the open space preserved.

**B. Procedures.**

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<sup>40</sup>. Editor's Note: See the New York State Uniform Fire Prevention and Building Code.

<sup>41</sup>. Editor's Note: Amendments pending adoption.

- (1) Coordination with additional Town of Henrietta regulations:
  - (a) All applications being considered under this section shall adhere to the submission requirements set forth within the Town of Henrietta Subdivision Regulations.<sup>42</sup>
  - (b) Project review under this open space incentive option shall follow the process set forth under § 295-60, Cluster subdivision (NYS Town Law § 278).
  - (c) Following completion of concept plan review of a subdivision application being considered for an open space incentive, the applicant shall proceed with the submission of a preliminary subdivision plan, incorporating the recommendations of the Planning Board. Final lot count and layout shall be determined after the fulfillment of all of the requirements for a subdivision approval.
- (2) Preapplication concept plan meeting (optional).
  - (a) Meeting with Town staff. In order to save the applicant and the Planning Board time and expense, prior to submission of an application for a conservation subdivision, the applicant may present a general description of the project to the Director of Engineering and Planning at a preapplication meeting. The applicant should provide an existing conditions analysis and concept plan and provide a description of how the project meets the purpose of this section, the Rural Development Design Guidelines, and a narrative sufficient for understanding the proposal. The Director of Engineering and Planning will direct the applicant to proceed to a meeting with the Planning Board, or may recommend revisions to the concept plan prior to meeting with the Planning Board.
  - (b) Concept/preliminary meeting with Planning Board, The purpose of this meeting is to discuss and clarify the purpose and goals of the conservation subdivision approach, review the approval process and expected timetables, ensure that the project sponsor has access to the Town's Rural Development Design Guidelines, and review the general project description.
- (3) Concept plan. In addition to all requirements for submission of concept plan per the Town of Henrietta's Subdivision Regulations, the applicant shall submit the following information:
  - (a) Conceptual site analysis and proposed development concept plans: These shall be developed per the four-step process outlined in the Rural Development Design Guidelines. Two drawings shall be prepared: a summary plan identifying existing natural and cultural resources, along with a concept plan showing proposed streets, lots, and conservation area.
  - (b) Determination of unit (lot) count: The applicant shall include a table demonstrating the total unit count according to Table 1: Unit Count

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<sup>42</sup>. Editor's Note: See Ch. 245, Subdivision of Land.



Calculation based on the district in which the proposed subdivision is located and the amount of open space protected. Note: All numerical fractions shall be rounded down to the nearest whole number.

**Table 1 Unit Count Calculation**

<b>Rural Residential-1 (RR-1) with Central Water and Sewer</b>		
<b>Percentage of Open Space</b>	<b>Potential Dwelling Units per Unconstrained Acre</b>	<b>Minimum Lot Area in Acres (square feet)</b>
0% (no incentive)	n/a	2.0 (87,120)
30%	0.60	0.68 (30,000)
50%	0.70	0.46 acres (20,000)

<b>Rural Residential-2 (RR-2) Without Central Water and/or Sewer</b>		
<b>Percentage of Open Space</b>	<b>Potential Dwelling Units per Unconstrained Acre</b>	<b>Minimum Lot Area in Acres (square feet)</b>
0% (no incentive)	n/a	5.0 (217,800)
30%	0.25	1.83 (80,000)
50%	0.30	1.15 (50,000)
65%	0.35	0.92(40,000)

- (c) Determination of development density. The maximum permitted development density shall be based on a calculation of total site area remaining after subtraction of the site area containing surface waters, state-designated wetlands, and federal jurisdictional wetlands (i.e., unbuildable land).

- (d) Unit count.

[1] Unit count example: RR-1 District with 50% open space provided. Using the open space incentive option, the allowed number of units is increased based on the amount of open space protected. For example:

- [a] Parent lot: 100 acres.
- [b] Unbuildable acres: 20 acres of wetlands.
- [c] Buildable acres: 80 acres.
- [d] Percent of open space protected: 50% (50 acres).
- [e] Allowed units: 56 lots (80\*0.70).

- [2] Unit count example: RR-2 District with 65% open space provided. Using the open space incentive option, the allowed number of units is increased based on the amount of open space protected. For example:

- [a] Parent lot: 100 acres.
- [b] Unbuildable acres: 20 acres of wetlands.
- [c] Buildable acres: 80 acres.
- [d] Percent of open space protected: 65% (65 acres).
- [e] Allowed units: 28 lots (80\*0.35).

C. Eligibility and criteria for approval. Parcels may be eligible for the open space incentive option, provided that the following criteria have been addressed to the Planning Board's satisfaction:

- (1) Selection of open space area. As outlined in the Rural Development Design Guidelines, the identification and designated conservation of natural, cultural and scenic resources shall be the starting point for the design of subdivisions utilizing the open space incentive option. Protection of agricultural lands/soils and significant landscape features as outlined in the Rural Development Design Guidelines shall be considered first and foremost for conservation designation. Additional lands or site features that contribute to the site's unique character may also be included in the conservation area.
- (2) Land designated for conservation shall be subject to the approval of the Planning Board.
- (3) The applicant, Town staff and the Planning Board shall use the Rural Development Design Guidelines to identify appropriate open space or conservation areas. The Planning Board shall make its decision based upon consideration of the Rural Development Design Guidelines and the Town's desire to:
  - (a) Protect existing farms and agricultural lands suitable for agriculture.
  - (b) Protect land for recreational uses, including trails.
  - (c) Protect environmentally sensitive lands.
  - (d) Protect lands unsuitable for development.
  - (e) Provide connections of larger tracts of land that have the potential to create networks of open space.
  - (f) Protect and enhance the rural character of the area.

D. Designated conservation lands.

- (1) Use.
  - (a) Land designated for conservation or open space is limited to the following uses:
    - [1] Dedicated park and recreation area.
    - [2] Private open space.
    - [3] Forestry, farming operations, pastureland, fields and similar agricultural uses.
  - (b) Conservation areas shall be limited to the uses listed above, and no permanent structure shall be erected upon the lands of such open areas except such as shall be determined by the Planning Board to be incidental to such recreational or agricultural use. No building permit shall be given for such structure in the absence of site plan approval thereof given by the Planning Board in accordance with this chapter.
- (2) Private ownership and management of conservation (open space) lands. Lands designated for conservation shall be held in private ownership unless such lands are found to be of significant Town-wide benefit. For conservation lands that will be primarily associated with an individual lot, the conservation land ownership should be tied to that lot. For conservation lands which will primarily benefit the owners of lots in a development, those lands should be held by a homeowners' association or similar entity. Conservation lands and easements may also be held by a land trust or similar entity. The applicant will provide documentation for review and approval by the Town Board of the proposed ownership and management entity of the conservation lands. Conservation lands held in private ownership shall be described in a conservation easement and recorded by the Town on the official Zoning Map of the Town and recorded by the County Clerk.
- (3) Town Board determination on ownership of conservation land. The Planning Board shall refer the preliminary subdivision plat to the Town Board for a determination on the acceptability of the proposed conservation lands in terms of proposed ownership. The Town may consider but shall not be obligated to accept ownership of any proposed conservation lands, either in fee simple or by conservation easement.

E. Additional incentives.

- (1) Applicants under this section who provide the community with certain amenities as a result or part of new subdivisions may receive a density bonus beyond what is allowed in the applicable zoning district and through open space incentives. If additional incentives are included, the applicant shall include a table calculating desired incentives according to the following calculations:
  - (a) Public access to conservation areas. Where the public is granted access to conservation areas or there is a linking of open space or trail corridors through the site with existing/proposed trails or open space networks, the development may be awarded a unit count bonus of 10%. To qualify, the

general public must have regular opportunity for access to and use of at least 10% of the conservation area for pedestrian purposes.

- (b) Protection of historically significant resources from development. Where a development protects historically significant buildings and their setting (e.g., an historic farm house and barn complex and open area around), the development may be awarded a unit count bonus of 5%. Historical significance must be established pursuant to the findings of the Town Historian.
  - (c) Conservation land ownership and management by a nonprofit regional land trust may be awarded a unit count bonus of 5%.
  - (d) Open space conservation, including provision of conservation easements for important open space resources on parcels other than the proposed development parcel(s) in the Rural Residential District may be awarded a unit count bonus of up to 20% based on the quality and quantity of these off site lands to be conserved.
  - (e) Other. The Planning Board reserves the right to award a unit count bonus of up to 10% based on the provision of additional amenities provided by the project applicant that meet the goals and objectives of this section and the Rural Development Design Guidelines.
- (2) In no situation may the bonus increase the unit count beyond 25% of the site's allowed unit count (after calculations for the open space incentive). Final determination of incentives shall be made by the Planning Board in its review of the application and in accordance with the Rural Henrietta Design Guidelines and other Town planning documents.
  - (3) For example, if an applicant was entitled to 56 lots in the RR-1 District after calculation of open space incentives, the maximum number of lots that could be allowed including additional incentives would be 70 (An additional 14 lots, 25% of 56. Fractions shall be rounded to the nearest whole number.).
- F. Enforcement of provisions. To ensure the enforcement of the provisions of this section, the Planning Board as a condition to the granting of subdivision approval may require the applicant, developer or other owner of such subdivided tract to make, execute, deliver or file such instrument or instruments as the Planning Board shall determine to be reasonably necessary to protect and preserve and to limit and restrict the use of such open area in accordance with the spirit and intent of this section.
  - G. Conveyance of land. Nothing contained in this subsection, however, shall prohibit open area created pursuant to this section to be conveyed to the Town for recreational use upon acceptance of the Town Board, or from being conveyed to a recognized conservation organization or other entity (e.g., school district) upon approval of the Town Board.
  - H. Costs. All legal, engineering and other expenses in connection with the matters herein provided shall be borne by such applicant, developer or other owner of such subdivision.

**§ 295-52.2. Food trucks. [Added 10-16-2013 by L.L. No. 1-2013]****A. General provisions.**

- (1) It shall be unlawful for any person to operate a mobile food vehicle within the public rights-of-way or on public property anywhere within the Town of Henrietta.
- (2) It shall be unlawful for any person to operate a mobile food vehicle on private property without first having obtained a valid mobile food vending license as prescribed in this section. Operation of a mobile food vehicle on private property shall be regulated in accordance with all applicable provisions of the Town Code.
- (3) Mobile food vehicles with a valid mobile food vending license as prescribed by this section shall be allowed to operate on private property within an area that has been designated by the Town of Henrietta as an approved location.

**B. Approved locations.**

- (1) To be considered an approved location for mobile food vehicles, owners of private land zoned commercial or industrial must make application to the Town Board of the Town of Henrietta for a special use permit, according to the provisions of Article XII of this chapter. The application for such license shall be on forms provided by the Director of Building/Fire Marshal or the Director's designee.
- (2) Approved locations may not be adjacent to or within a radius of 100 feet of the nearest edge of any building or section of a building comprising a licensed food establishment, excluding any patio, awning or temporary enclosure attached thereto, the kitchen of which is open for serving food to patrons. This requirement may be waived if the application is submitted together with the written consent of the proprietor of the adjacent licensed food establishment.
- (3) Approved locations may not conflict with any parking and vehicle and traffic laws, ordinances, rules and regulations of the Town of Henrietta, County of Monroe or State of New York.
- (4) Neither the vendor nor the property owner may provide seating intended primarily to accommodate patrons of the food vehicle, except that the property owner may provide a reasonable amount of seating to be used by employees of a business that is located on that property.
- (5) The initial license shall be subject to approval by the Town Board of the Town of Henrietta. The permit holder must appear before the Town Board to request changes to the special use permit that increase the number of approved locations on that permit holder's properties. Changes to the location or dimensions of a designated area within an approved location are subject to the approval of the Director of Building/Fire Marshal.

**C. Vendors.**

- (1) To operate in an approved location, the vendor must have written permission of the owner of the property specifying the days, times and specific location(s) for which

permission has been granted. Such written permission must be in a form acceptable to the Town Attorney.

- (2) Mobile food vehicles may only be parked in areas indicated on the permit application submitted to the Town by said property owner and approved by the Director of Building/Fire Marshal.
- (3) Mobile food vehicles with a valid mobile food vending license may be operated by the vendor during hours as approved by the property owner. However, vendors may not operate mobile food vehicles:
  - (a) Before 9:00 a.m.; or
  - (b) After 9:00 p.m., Sunday through Thursday; or
  - (c) After 10:00 p.m. on Friday and Saturday.
- (4) Mobile food vehicles must be parked within the boundaries of the designated area of the approved locations, as approved by the Town Board. The Town Board designates the Director of Building/Fire Marshal (or his designee) as the person authorized to make the determination of whether the mobile food vehicle is in compliance.
- (5) Each and every mobile food vehicle must at all times carry on the vehicle a "measuring wheel" with a measuring capability of no less than 500 feet as a condition of its licensure. The failure of any mobile food vehicle to carry such a measuring wheel or abide by the proximity distance restrictions included in this section shall constitute a violation of this section pursuant to Subsection H.
- (6) All mobile food vehicle vendors must abide by all parking and vehicle and traffic laws, ordinances, rules and regulations at all times.
- (7) It shall be unlawful for any mobile food vehicle vendor to operate within 500 feet of the boundary line of any fair, carnival, circus, festival, special event or civic event.
- (8) All signage must be permanently affixed to the mobile food vehicle. No accessory signage shall be placed outside or around the mobile food vehicle.
- (9) All mobile food vehicles must be equipped with trash receptacles of a sufficient capacity and shall be changed as necessary to prevent overflow or the creation of litter or debris. Each mobile food vehicle vendor shall be responsible for abiding by Chapter 234, Solid Waste, Part 1, of this Code, any violation of which shall be punished in accordance with § 234-12 of this Code.
- (10) No alcohol may be sold or dispensed from mobile food vehicles.

D. License required; application.

- (1) Any person desiring to operate a mobile food vehicle shall make a written application for such license to the Director of Building/Fire Marshal. The

application for such license shall be on forms provided by said Director or the Director's designee, and shall include the following:

- (a) Name, signature and address of each applicant and each corporate officer of the mobile food vehicle vending corporation.
- (b) A valid copy of all necessary licenses, permits or certificates required by the County of Monroe, the State of New York or any subsidiary enforcement agencies or departments thereof, including, but not limited to, a valid New York State Department of Motor Vehicles registration and certificate of inspection and valid driver's licenses of all vehicle operators.
- (c) A signed statement that the vendor shall hold harmless the Town and its officers and employees for any claims for damages to property or injury to persons which may be occasioned by any activity carried on under the terms of the license.
- (d) Insurance.

[1] The vendor shall furnish a certificate of insurance evidencing that the vendor possesses and maintains such public liability, food products liability, and damage to property or bodily injury, including death, which may arise from the operations under the license or in connection therewith. Such insurance shall provide coverage of not less than \$1,000,000 per occurrence. The policy shall further provide that it may not be canceled except upon 30 days' written notice served upon the Town of Henrietta Office of Licenses. A license issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Town of Henrietta.

[2] In addition to the above-required certificate of insurance, the vendor shall also endorse, maintain and include the Town as an additional named insured on its underlying business commercial general liability policy.

- (2) All license applicants and applicants for renewals thereof shall present each vehicle to the Fire Marshal to determine that the vehicle meets all applicable New York State Fire Codes.
- (3) The initial license shall be subject to approval by the Town Board of the Town of Henrietta.

E. Form and condition of license. Every mobile food vehicle vending license shall contain the following conditions:

- (1) Each mobile food vehicle vending license shall expire on April 1 of every year.
- (2) The license shall not be transferable from person to person.
- (3) The license is valid only for the vehicle for which it was issued.

## F. License fee.

- (1) All vendors shall pay an initial application fee in an amount set from time to time by the Town Board, which shall include the first year's license fee.
- (2) All vendors holding a license that has been revoked or permitted to lapse shall pay an annual renewal fee as set by the Town Board.

## G. Compliance with other regulations.

- (1) The owner/operator of any mobile food vehicle licensed by the Town of Henrietta shall comply with all provisions of federal, state and local laws and ordinances.
- (2) The owner/operator of any mobile food vehicle licensed by the Town of Henrietta shall comply with all notices, orders, decisions and rules and regulations made by the Henrietta Building Department, the Henrietta Code Enforcement Office, the Monroe County Sheriff's Office, the Monroe County Health Department, or any other Town of Henrietta department and/or agency.

## H. Penalties for offenses.

- (1) Any person, firm or corporation violating the provisions of this section shall, upon conviction or a plea of guilty, be subject to the penalties set forth in § 295-66 of this chapter.
- (2) Closure for operation without license. Any mobile food vehicle operating without the required Town of Henrietta license shall be immediately closed by order of the Town of Henrietta. Every day of operation without a license shall constitute a separate violation and shall be punishable by a fine of \$1,500 per violation.

**§ 295-52.3. Chicken coops. [Added 11-6-2013 by L.L. No. 2-2013]**

- A. License required. Any person desiring to house chicken hens on property occupied by him or her shall obtain a license from the Town.
- B. License application. The application for such license shall include the following information:
  - (1) The name, phone number and property address of the applicant.
  - (2) The location of the subject property.
  - (3) The size of the subject property.
  - (4) The number of chicken hens the applicant seeks to keep on the property.
  - (5) A description of any coops or cages that will house the chicken hens, together with a description of any fencing, barriers or enclosures surrounding the curtilage of the property.
  - (6) A scaled drawing showing the precise location of cages, coops, enclosures, fences and barriers in relation to property lines and to structures on adjacent properties.



- (7) A description of the manner by which feces and other waste materials will be removed from the property or will be treated so as not to result in unsanitary conditions or in the attraction of rodents and insects.
- (8) A signed statement from the property owner, if the applicant is not the property owner, granting the applicant permission to engage in the keeping of chicken hens as described in the license application.

C. chicken coop setbacks and requirements.

- (1) Setbacks.
  - (a) The coops or cages housing such chicken hens must be situated at least 20 feet from any door or window of a dwelling, school, church or other occupied structure other than the applicant's dwelling.
  - (b) The coops or cages housing such chicken hens may not be located in front or side street yard areas and shall not be located within five feet of a side yard lot line nor within 18 inches of a rear yard lot line, except where the rear lot line forms the side lot or front lot line of an abutting property, in which case the setback from such rear lot line shall be five feet. No chicken hens shall be kept in front yard or side street yard areas.
- (2) Enclosures; coops and cages. Chicken hens shall be kept within both a coop and a fenced outdoor enclosure.
  - (a) The total area of all coops and cages on a lot shall not be greater than 108 square feet of floor/ground space for up to six chicken hens. The chicken coop shall be a covered, predator-resistant, well-ventilated structure providing a minimum floor/ground space of two square feet per chicken hen. Coops and cages, singly or in combination, shall not exceed seven feet in height. A fenced run outside the coop shall have a minimum area of 10 square feet of floor/ground space for each chicken hen.
  - (b) The coop must be kept in a clean, dry and sanitary condition at all times.
  - (c) The outdoor enclosure shall be adequately fenced to contain the chicken hens and to protect the chicken hens from predators. It shall be cleaned on a regular basis to prevent the accumulation of animal waste.
  - (d) The chicken feed or other food used to feed the chicken hens shall be stored in a ratproof, fastened container stored within a structure, which shall only be unfastened for the retrieval of food and shall be immediately refastened thereafter.
  - (e) The chicken hens shall be fed only from an approved trough. Scattering of food on the ground is prohibited.
- (3) Sanitation and nuisances.
  - (a) Chicken hens shall be kept only in conditions that limit odors and noise and the attraction of insects and rodents so as not to cause a nuisance to

occupants of nearby buildings or properties and so as to comply with applicable provisions of both the New York State and Monroe County Sanitary Codes.

- (b) Chicken hens shall not be kept in a manner that is injurious or unhealthful to any animals being kept on the property.
- (4) Slaughtering. There shall be no outdoor slaughtering of chicken hens.
- D. Restrictions; license fee. It shall be unlawful for any person to keep, permit or allow any domesticated chicken hens in conjunction with a residential use in any district under the following terms and conditions and after having received a license to keep said chicken hens from the Fire Marshal/Building Inspector as prescribed herein under the following terms and conditions:
  - (1) No more than six chicken hens shall be allowed for each single-family dwelling.
  - (2) No chicken hens shall be allowed in multifamily complexes, including duplexes.
  - (3) No roosters shall be allowed.
  - (4) Chicken hens are to be restricted to the rear or back yard of any lot in a residential zoning district or the rear or back yard of a residential use in all other zoning districts.
  - (5) Chicken hens shall be kept as pets and for personal use only; no person shall sell eggs or meat or engage in chicken breeding or fertilizer production for commercial purposes.
  - (6) Persons wishing to keep chicken hens within the Town of Henrietta must obtain a license from the Fire Marshal/Building Inspector after payment of an annual fee and an inspection fee in an amount set from time by the Town Board, and after inspection and approval of the coop and cage in which the chicken hens are to be kept by the Fire Marshal/Building Inspector.
- E. Review, expiration and renewal of license.
  - (1) Initial review.
    - (a) The Town Board and the Supervisor shall also immediately be notified of the chicken license application.
    - (b) The Town Board shall determine, in its discretion, and taking into account the entire record before it, whether or not a chicken license shall be issued to the applicant. The Town Board shall be empowered to impose further conditions on the license that it deems to be necessary to preserve the public health, safety and/or welfare.
    - (c) Upon the approval of a majority of the Town Board, the Fire Marshal/Building Inspector shall issue a license in accordance with the Town Code.

- (d) The Fire Marshal/Building Inspector shall cause an inspection of the proposed chicken coop to be conducted to verify conformance with the provisions of the existing Code hereof within 45 days of the applicant being issued a license.
  - (e) After completion of the inspection by the Fire Marshal/Building Inspector and confirmation that the coop conforms to the specifications provided in the application approved by the Fire Marshal/Building Inspector, the licensee shall be allowed to keep on the premises the number of chicken hens specified in the license.
  - (f) A license issued to an applicant shall include the licensee's proper name, the property address for which the license is valid, the number of chicken hens allowed at the property address, a unique license number, the date the license was issued, an expiration date exactly one year from the date of issuance and any conditions imposed by the Town Board.
  - (g) Only one chicken license shall be issued per applicant and per property. No licensee shall be eligible to obtain a chicken license for multiple properties, nor shall more than one license be issued to one property address.
- (2) Renewal.
- (a) On the first day of May of every year, the Fire Marshal/Building Inspector shall file with and notify the Town Board of all chicken hen licenses issued in the prior year, including the names of the licensees, their property addresses, the number of chicken hens licensed at said property and the issuance and expiration dates of said licenses.
  - (b) On or before June 1 of every year, the Town Board or any other interested party shall file complaints received regarding licensed chicken hens.
  - (c) Any complaints received regarding any particular chicken license issued shall be considered at a meeting of the Town Board, at which the licensee and any other interested party shall have the right to be heard concerning said license.
  - (d) The Town Board may, in its discretion, not renew any chicken license for good cause after the licensee and any other interested party have been given an opportunity to be heard.
  - (e) On June 1 of every year, the Town Board shall proceed to consider renewal of all chicken licenses issued, as prescribed in the Town Code, and may revoke any license issued pursuant thereto.
  - (f) If, at any time, the Town Board is made aware of any complaints regarding a properly licensed chicken coop, it may proceed to hear the complaints of any interested party and the defense of the licensee at a meeting of the Town Board and may revoke the license issued for good cause.
  - (g) If a license is renewed pursuant to the provisions hereof, the applicant may continue to keep chicken hens pursuant to the terms and conditions set forth

herein and imposed in the initial license, provided that he or she pays the annual fee of \$25 on or before the expiration date of the license.

- (h) Except in the case of a chicken coop that is not permanently affixed to the ground and is therefore mobile, any licensee shall first obtain a building permit in accordance with the Town Code prior to constructing or erecting a chicken coop not inconsistent herewith.

F. Other fowl prohibited; existing fowl.

- (1) No person shall have, or keep, or offer to sell any fowl within the Town of Henrietta. "Fowl" includes any geese, ducks, pigeons or doves.
- (2) Any permits previously issued shall be grandfathered until such time as the fowl are deceased, and at that time said permits shall expire and no new permits shall be granted.

## ARTICLE XII

### Permits

#### § 295-53. Procedure for obtaining special permits.

- A. Whenever a special permit is required by this chapter, as now or hereinafter in effect, the applicant shall proceed in the following manner. The application for such special permit shall be made in writing at least 30 days before the hearing date and filed with the Fire Marshal/Building Inspector. Every such application shall be on a form to be provided by the Department of the Fire Marshal/Building Inspector, which form may be supplemented by a petition of the applicant and shall be accompanied by a plot plan showing, where applicable, the location, dimensions and area of the land or lot; the location of all existing and proposed buildings or structures with reference to property lines; the elevation, area and dimensions of all existing and proposed buildings or structures; the plans and specifications for all proposed buildings or structures or alterations of existing buildings or structures; a statement of the specific use or uses to be made of the land, buildings or structures; and such other information as the Fire Marshal/Building Inspector may require in order to pass on the application. All papers shall be filed in duplicate. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- B. Within a reasonable time the board to which such application is directed (or, if such powers have been delegated by the board to the clerk of the board or to the Fire Marshal/Building Inspector, then such official) shall direct a public hearing to be held on the application and fix the date of such hearing. The hearing shall be held within 62 days after filing of the application. Publication of notice of hearing shall be made by the board once in the official newspaper at least five days prior to the hearing date, and the board shall also mail written notice of such hearing to all property owners within 750 feet in all directions at least five days before the date of such hearing. Proof of publication and mailing shall be filed with the Fire Marshal/Building Inspector before the hearing date. The board may delegate the power to call the hearing and fix hearing dates to its clerk or to the Fire Marshal/Building Inspector. **[Amended 7-15-1992; 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**

- C. At such hearing, the board may take such testimony and thereafter conduct such investigation as it deems necessary and shall, within 62 days after the hearing, grant or deny the application or grant the same on conditions stated in the decision. The decision of the board shall be entered in its minutes and filed with the Town Clerk of the Town of Henrietta. If the special permit is granted, the decision of the board shall direct the Fire Marshal/Building Inspector to issue a building permit or certificate of occupancy, as may be appropriate, in conformity with the decision, upon payment of the required fee. **[Amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**
- D. In the case of an application to the Town Board, the Town Board may, if it so desires and in its own discretion, before taking final action, refer the application to the Planning Board. Within 30 days after receipt of the application and the supporting papers filed in connection therewith, the Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of its reasons for the recommendations. Said recommendations are not binding upon the Town Board. If the Planning Board fails to report on a referred application prior to the time the Town Board is ready to act on the application, the Town Board may take action relative to the application as it sees fit, without any report.
- E. Fees shall be as established by Town Board resolution and paid to the Town Clerk as required by law.

**§ 295-54. Granting or denial of special permits.**

In granting or denying any special permit, the board shall consider and shall determine, either from its own knowledge and investigation or from testimony or other information submitted to it, the facts with reference to such of the following matters as are relevant and shall make its decision on the basis of such facts:

- A. The effect of the proposed use on the orderly development and character of the neighborhood of the proposed use and upon the development and conduct of other lawful uses in the vicinity.
- B. Whether the proposed use will be in harmony with the existing and probable future development of the neighborhood in which the premises are situated.
- C. The number and proximity of the same or similar uses in the neighborhood of the premises.
- D. Whether the proposed use will be a nuisance in law or in fact and whether the use will be noxious, offensive or injurious by reason of production of or emission of dust, smoke, refuse, poisonous substances, odors, fumes, noise, radiation, vibration, unsightliness or similar conditions or will contaminate waters.
- E. Whether the proposed use will create hazards or dangers to the public or to persons in the vicinity from fire, explosion, electricity, radiation, traffic congestion, crowds, parking of automobiles or other causes.

- F. What conditions, restrictions and safeguards are necessary to protect property values in the vicinity of the proposed use and for the protection of the health, safety, morals, peace and general welfare of the community and of the public.

**§ 295-55. Duration of special permits.**

- A. The phrase "granting a special permit" as used in this chapter shall mean the authorization, by the proper board, of the issuance of a building permit or certificate of occupancy by the Fire Marshal/Building Inspector or other authorized official of the Town. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- B. After the special permit has been granted and the decision of the board has been duly filed, the applicant shall be entitled to a building permit or certificate of occupancy, as may be appropriate, upon application to the proper officer as required by Chapter 48, Building and Development, or by this chapter, provided that application for such permit or certificate of occupancy shall be made within one year from the date when the decision of such board becomes final, either by expiration of the time for review of the same by a court or by the final judgment of the court in case of court review. If such application is not made within the time limit, such special permit shall become null and void and of no effect (unless the time for such permit is extended as herein provided), and thereafter no building permit shall be issued to the applicant pursuant to such special permit.
- C. After a building permit or certificate of occupancy has been issued upon timely application, the same shall become null and void unless work is commenced within the time limited by Chapter 48, Building and Development, unless such time is extended as herein provided, and, after the time for issuance of the permit or certificate of occupancy has finally expired, no further permit or certificate of occupancy of any kind shall be issued pursuant to the original grant of authority by the board.
- D. The board for cause shown may, upon written application made prior to the expiration of the time limit, extend the time within which a building permit or certificate of occupancy may be issued or within which the work or use may be commenced pursuant to any building permit or certificate of occupancy for successive periods of not to exceed six months each.
- E. Any special permit granted by the Town may be revoked by the Town Board after notice and a hearing for any knowing violation of any provision of federal, state and local law or ordinance relating to the conduct of business and the use or maintenance of the premises or the knowing failure to comply with all the notices, orders, decisions and rules and regulations made by the Town governing the occupation and use of the premises by the applicant or a duly authorized agent or employee of the applicant in charge of the use. **[Added 9-2-1992]**
- F. Notice of a hearing for the revocation of a special permit shall be given, in writing, by the Town Clerk. The notice shall specifically set forth the grounds upon which the proposed revocation is based and the time and place of the hearing. It shall be served by mailing a copy to the applicant at his last known address by certified mail, return receipt requested, at least five days prior to the date set for the hearing. **[Added 9-2-1992]**

- G. At the hearing, the applicant shall have the right to appear and be heard, to be represented by an attorney, to present witnesses on his own behalf, to cross-examine opposing witnesses and to have a permanent record made of the proceedings at his own expense. The Town Board shall revoke or suspend the special permit if it is satisfied by a preponderance of the evidence that the applicant is guilty of the acts charged. **[Added 9-2-1992]**
- H. The Town Board may issue another special permit to a person whose special permit has been revoked as provided in this section if, after a hearing, it is satisfied by clear and convincing evidence that the acts which led to the revocation will not occur again; otherwise, no person whose special permit has been revoked nor any person acting on his behalf, directly or indirectly, shall be issued another special permit to carry on the same activity. **[Added 9-2-1992]**

### ARTICLE XIII Administration

#### **§ 295-56. Enforcement. [Amended 2-15-2006 by L.L. No. 1-2006]**

This chapter shall be enforced by the Fire Marshal/Building Inspector. No building permit or certificate of occupancy shall be granted by him for any purpose, except in compliance with provisions of this chapter.

#### **§ 295-57. Building permit required. [Amended 2-15-2006 by L.L. No. 1-2006]**

No building or structure shall be erected, added to, demolished or moved to other premises or structurally altered until a permit therefor has been approved by the Fire Marshal/Building Inspector. All applications for such permits shall be in accordance with the requirements of Chapter 48, Building and Development, and this chapter.

#### **§ 295-58. Certificate of occupancy required. [Amended 2-15-2006 by L.L. No. 1-2006]**

No building or structure which has been erected, altered or extended shall be occupied or used until a certificate of occupancy has been issued by the Fire Marshal/Building Inspector stating that the building or structure and proposed use thereof comply with the provisions of this chapter.

#### **§ 295-59. Interpretation and application of provisions.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, morals, safety or the general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or those imposing the higher standards, shall govern.

## ARTICLE XIV

**Planning Board and Zoning Board of Appeals****§ 295-60. Planning Board.**

- A. The Planning Board as now existing shall continue to exist. Its members shall be appointed by the Town Board in such manner and for such terms as provided by the Town Law and any amendments thereto.
- B. The Planning Board shall have the powers and duties prescribed by the applicable provisions of the Town Law, including the powers set forth in § 278 of the Town Law, provided that, in addition to the conditions set forth in § 278, no plat resulting from the application of the § 278 procedure which shows lands available for park, recreation, open space or other municipal purposes directly related to the plat shall be approved by the Planning Board unless and until the lands available for such purposes and the uses thereof have been first approved by resolution of the Town Board. The powers delegated to the Planning Board herein shall apply to all districts zoned R-1 and R-2. **[Amended 6-20-2001 by L.L. No. 3-2001; 2-6-2002 by L.L. No. 1-2002]**
- C. Site plan approval. **[Added 4-15-1998]**
  - (1) The Planning Board shall have the powers and duties to approve site plans for all applications where Planning Board review is required under the applicable provisions of this chapter consistent with the provisions of § 274-a of the Town Law of the State of New York. (See for example §§ 295-17, 295-19, 295-24, 295-29, 295-31 and 295-32 and all such other sections requiring Planning Board review as they now exist or from time to time are amended.)
  - (2) Before issuing a building permit for the construction of a building on a lot in any district, except for one-family dwellings or two-family dwellings in approved subdivisions, or issuing a certificate of occupancy for a change in use of an existing premises, the Fire Marshal/Building Inspector or Assistant Building Inspector shall refer the site plans for construction on such lot to the Planning Board for its review and approval. Except for one-family dwellings or two-family dwellings in approved subdivisions or lots, no building permit or certificate of occupancy for a change in use of existing premises shall be issued except in accordance with the standards and procedures set forth in this section. **[Amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**
  - (3) An applicant may, if the applicant so desires, apply for a sketch plan or concept plan meeting with the Planning Board. Upon payment of the appropriate fees, the concept plan or sketch plan will be submitted to the Planning Board for discussion at a regular meeting of the Planning Board. The purpose of the sketch plan or concept review is merely for guidance to the applicant, and there shall be no written decision or determination by the Board, and the submittal of the sketch plan or concept plan to the Planning Board shall not constitute a formal application to the Planning Board. If the applicant desires to proceed with the matter, it shall make new application to the Planning Board for site plan approval in accordance with the procedure as outlined in the subsections that follow.



- (4) Prior to submitting the matter to the Planning Board for site plan approval the applicant shall complete the site plan checklist adopted by the Board as on file with the Department of the Fire Marshal/Building Inspector. Such site plan checklist shall be deemed a necessary requirement for site plan approval consideration. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- (5) After the site plan approval has been granted by the Planning Board and the decision of the Board duly filed, the applicant shall be entitled to a building permit and certificate of occupancy, as may be appropriate, upon application to the proper officer as required by the Code of the Town of Henrietta, provided that applications for such permit or certificate of occupancy shall be made within one year from the date that the decision of the Planning Board becomes final, either by expiration of the time for review of the same by a court or by the final judgment of the court in case of court review. If such application is not made within the time limit, such site plan approval shall become null and void and of no effect unless the time for such approval is extended (as herein provided), and thereafter no building permit shall be issued to the applicant without reapplication to the Planning Board and its approval.
- (6) The Planning Board for cause shown may, upon written application made prior to the expiration of the time limit, extend the time within which a building permit or certificate of occupancy may be issued for successive periods not to exceed six months each.

#### **§ 295-61. Zoning Board of Appeals.**

A Zoning Board of Appeals, appointed pursuant to § 267 of the Town Law, shall continue to exist. Its members shall be appointed by the Town Board in such a manner and for such terms as provided by the Town Law and any amendments thereto.

#### **§ 295-62. Powers and duties of Zoning Board of Appeals.**

- A. As delegated by this chapter or the Town Law and when such power is not vested in the Town Board, the Zoning Board of Appeals shall have power to hear and decide appeals from any order, decision or determination of the Fire Marshal/Building Inspector or other administrative officer charged with the enforcement of this chapter, and in passing upon such appeals it shall have power to vary or modify the application of any of the provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land to the extent permitted by the Town Law. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- B. The Zoning Board of Appeals shall have the power to issue special permits to the extent that the same is expressly provided or permitted by this chapter to the Zoning Board of Appeals. The Zoning Board of Appeals shall have no power to issue special permits where such power to issue special permits is vested in the Town Board. It shall have the power to grant special permits when required under this chapter.

- C. It may adopt rules governing the taking, hearing and determination of appeals, applications for special permits and other matters over which it has jurisdiction, consistent with the provisions of this chapter. The Town Board shall administer and enforce this chapter, acting through the Fire Marshal/Building Inspector or such other persons as it may designate, and either Board may, upon application, extend the date for the completion of the erection or alteration of any structure and the duration of the permits therefor. **[Amended 2-15-2006 by L.L. No. 1-2006]**
- D. It shall have such other powers and duties as provided by the Town Law and any amendments thereto and by this chapter and any amendments thereto.

#### **§ 295-63. Appeals.**

- A. Any person aggrieved by the granting or refusal of any permit or by any order, decision or determination of the Fire Marshal/Building Inspector or other administrative official charged with the enforcement of this chapter and any officer, department, board or bureau of the Town may appeal to the Town Board or the Zoning Board of Appeals within 60 days from the date of the determination appealed from. **[Amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**
- B. Notice of appeal shall be in writing and shall be filed with the Board and served upon the Chairman or Clerk and upon the officer from whose order or decision the appeal is taken. Such notice of appeal shall specify the order, ruling, decision or determination from which the appeal is taken, and if the appeal involves the granting of a variance or modification of any of the provisions of this chapter, such notice of appeal shall specify that a variance or modification is requested and the nature of the same.
- C. Any such appeal shall be taken, heard and determined in accordance with the provisions of the Town Law and the rules of the Board.
- D. Where the appeal is for a variance, the appellant shall file with the appeal all papers submitted with the original application for a permit or certificate of occupancy and shall, in any event, file with the appeal papers all the documents, plans, maps and information required by Article XII of this chapter in cases of application for special permits.
- E. A fee as established by the Town Board shall be paid to the Fire Marshal/Building Inspector at the time of the filing of an appeal under this section. **[Amended 6-20-2001 by L.L. No. 3-2001; 2-15-2006 by L.L. No. 1-2006]**

#### **§ 295-64. Duration of variances.**

The provisions for the duration of special permits shall apply to variances.<sup>43</sup>

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<sup>43</sup>. Editor's Note: See § 295-55 of this chapter.

ARTICLE XV  
**General Provisions**

**§ 295-65. Amendments.**

The Town Board may from time to time on its own motion or on petition or on recommendation of the Planning Board amend, supplement, change, modify or repeal this chapter pursuant to the provisions of the Town Law applicable thereto. Every such proposed amendment shall be referred to the Planning Board for a report prior to the public hearing thereon.

**§ 295-66. Penalties for offenses. [Amended 6-20-2001 by L.L. No. 3-2001]**

- A. The owner or general agent of a building or premises or land where violation of any provision of this chapter has been committed or shall exist; or the lessee or tenant of an entire building or entire premises or land where such violation has been committed or shall exist; or the owner, general agent, lessee or tenant of any part of the building or premises or land in which such violation has been committed or shall exist; or the general agent, lessee or tenant of any part of the building or premises or land in which such violation has been committed or shall exist; or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such part thereof in which any violation shall exist shall be guilty of an offense, punishable as provided in § 268 of the Town Law. Each week's continued violation shall constitute a separate additional violation.
- B. In addition, the Town authorities shall have such other remedies as are provided by law to restrain, correct or abate any violation of this chapter, and the violator shall be liable to the Town of Henrietta for a civil penalty of \$100 for each such violation, to be recovered in a civil action.

**§ 295-67. Effect on other provisions.**

The adoption of this chapter shall not affect or impair any act done, offense committed or right accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this chapter takes effect under the prior Zoning Ordinance of the Town of Henrietta adopted June 2, 1954, and all subsequent amendments thereto, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this chapter had not been adopted. All actions and proceedings commenced under or by virtue of said former ordinance and the amendments thereto and pending at the time this chapter takes effect may be prosecuted and defended in the same manner as they might have been if this chapter had not been adopted.<sup>44</sup>

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44. Editor's Note: Original § 68, Redesignation of districts, which immediately followed this section, was repealed 6-20-2001 by L.L. No. 3-2001. See now § 295-3, Establishment of districts. Former Art. XVI, Land Use Districts, § 295-68, Zoning descriptions, was repealed at time of adoption of Code. The current Zoning Map and the complete text of amendments to the Zoning Map are on file in the Town offices. Original § 71, Restricted development in the Marketplace Area, which also followed this section, added 6-15-1994, expired 6-15-1995 and therefore no longer appears as a part of this chapter.



# **APPENDIX**



## Chapter A300

### DESIGN STANDARDS FOR STORM DRAINAGE

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| <p>§ A300-1. Purpose; applicability.</p> <p>§ A300-2. Classification of drainage channels.</p> <p>§ A300-3. Determination of stream flow and runoff.</p> <p>§ A300-4. Major drainage channels.</p> | <p>§ A300-5. Secondary drainage channels.</p> <p>§ A300-6. Minor drainage channels; surface drainage.</p> <p>§ A300-7. Requirements relating to improvements.</p> <p>§ A300-8. Miscellaneous requirements.</p> |
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**[HISTORY: Adopted by the Town Board of the Town of Henrietta 12-15-1971 by resolution. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Building and development — See Ch. 48.  
Drainage — See Ch. 84.

Flood damage prevention — See Ch. 125.  
Subdivision of land — See Ch. 245.

#### § A300-1. Purpose; applicability.

These regulations and standards are to protect the various portions of the urban area from flooding, to provide clean and sanitary channels for runoff, to prevent the encroachment of buildings and improvements on natural drainage channels, to equitably apportion the cost of improvements, to protect natural scenic areas and to provide for the conservation of the natural resources of the area. The regulations, policies and standards herein contained shall apply to the area outlined by the Town of Henrietta, New York, which is hereby made a part of these regulations. All subdivisions of land and all improvements of any character which affect drainage in any portion of the area within the township shall be subject to the provisions of these regulations.

#### § A300-2. Classification of drainage channels.

- A. Major drainage channels. "Major drainage channels" are defined as those with a tributary drainage area between four square miles and 20 square miles. Such drainage channels shall be designed for an average recurrence interval of 50 years in the determination of the ultimate channel. The responsibility for major drainage channels shall be the same as stated for secondary drainage channels below.
- B. "Secondary drainage channels" shall be those rivers, streams and other channels which have been so designated by the township. In general, it is the intent of these regulations that channels which serve a drainage area of one square mile to four square miles or more shall be designated as secondary channels. It is intended by these regulations to provide that the maintenance and improvement of secondary drainage channels will be the responsibility of the municipality primarily, since the whole municipality is benefited materially. However, the developer of the land containing the ordinary channel is

expected to lay out, design and otherwise plan and carry out his improvements in a manner that will not interfere or increase or restrict the natural flow of water or materially change the condition of runoff. When changes in alignment are required due to the design or layout of a subdivision, or an expansion in cross-sectional area is required due to increased runoff, it shall be the responsibility of the developer to make the changes, and all changes shall be made in accordance with the provisions of these regulations. These channels shall be designed for an average recurrence of 25 years.

- C. "Minor drainage channels" shall include all channels in the area set forth by the Town of Henrietta, New York. It is intended by these regulations that the improvements of channels shall be the responsibility of the developer of the area served by the channel since the primary benefit is to the area served by the minor channel and not to the town as a whole. Where minor channels enter publicly dedicated parks, the channel shall revert to the secondary drainage channels classification in the park area. The design recurrence shall equal 10 years.

### **§ A300-3. Determination of stream flow and runoff.**

The maximum condition of rainfall for a fifty-year interval shall be used for the purposes of determining all runoff for the sizing of drainage channels and structures, unless otherwise specified herein. Values used in formulas for runoff and size of drainage structures shall reflect and shall not be less than the degree of urbanization set forth in the projected land use plan contained in the General Plan. The following formulas and values shall be used for calculating all stream flow and runoff for the policies and regulations established herein:

- A. Runoff from all drainage areas shall be determined by the rational formula (other acceptable methods may be submitted to the Town Board and its Engineer for approval):

$$Q = AIR$$

In  
which:

Q = Cubic feet per second.

A = Area to be drained in acres, determined by field surveys for areas less than 640 acres and by latest government quadrangle maps for larger areas.

I = Percent of imperviousness of the area. This may vary between 40% and 95%.

R = Rate of rainfall over entire drainage area in inches per hour, based on time of concentration and latest governmental records for the area.

- B. The size of closed storm sewers, open channels, culverts and bridges shall be determined using the Manning formula:

$$Q = \frac{a 1486 r^{2/3} s^{1/2}}{n}$$

In which:



- Q = Discharge in cubic feet per second.
- a = Cross-sectional area of water in conduit in square feet.
- s = Mean slope of hydraulic gradient, in feet of vertical rise per foot or horizontal distance.
- r = Hydraulic radius of water in conduit.
- n = Roughness coefficient, based on the condition and type of material of conduit lining, but not less than 0.013.

#### **§ A300-4. Major drainage channels.**

All major drainage channels which are located within or immediately adjacent to an improvement or a subdivision shall be protected and improved by the developer as follows:

- A. All land having an elevation below the fifty-year maximum flood elevation and not protected by levees or dikes shall be dedicated to the town for the purpose of providing drainage and for public park and utility easement use.
- B. The existing channel lying within or immediately adjacent to the subdivision shall be cleaned to provide for the free flow of water, and the channel shall be straightened, widened and improved to the extent required to prevent overflow beyond the limits of the dedicated drainage area.
- C. Site improvements shall provide for the grading of all building sites and streets to an elevation where all lots, building areas and streets will not be subject to overflow and in a manner that will provide for the rapid runoff of all rainfall; however, such improvements shall be carried out in a manner that will preserve and protect large trees and attractive physical features of the area.
- D. Whenever channel improvement is carried out, sodding, backsloping, cribbing, riprapping and other bank protection shall be designed and constructed to control erosion for all the anticipated conditions of flow for the segment of channel involved.
- E. A drainage channel shall not be located in a street easement unless it is placed in an enclosed storm sewer or unless a paved street surface is provided on both sides of a paved channel to give access to abutting properties.
- F. Culverts, bridges and other drainage structures shall be constructed in accordance with the specifications of the town at all locations where drainage channels intersect with continuous streets or alleys. All structures across public streets, alleys and sidewalks shall be designed for a fifty-year flood.

#### **§ A300-5. Secondary drainage channels.**

All secondary drainage channels which are located within or immediately adjacent to an improvement or a subdivision shall be protected and improved by the developer as follows:

- A. All land having an elevation below the twenty-five-year maximum flood elevation and not protected by levees or dikes shall be dedicated to the town for the purpose of providing drainage and for public park and utility easement use.
- B. The existing channel lying within or immediately adjacent to the subdivision shall be cleaned to provide for the free flow of water, and the channel shall be straightened, widened and improved to the extent required to prevent overflow beyond the limits of the dedicated drainage area.
- C. Site improvement shall provide for the grading of all building sites and streets to an elevation where all lots, building areas and streets will not be subject to overflow and in a manner that will provide for the rapid runoff of all rainfall; however, such improvements shall be carried out in a manner that will preserve and protect large trees and attractive physical features of the area.
- D. Whenever channel improvement is carried out, sodding, backsloping, cribbing, riprapping and other bank protection shall be designed and constructed to control erosion for all the anticipated conditions of flow for the segment of channel involved.
- E. A drainage channel shall not be located in a street easement unless it is placed in an enclosed storm sewer or unless a paved street surface is provided on both sides of a paved channel to give access to abutting properties.
- F. Culverts, bridges and other drainage structures shall be constructed in accordance with the specifications of the town at all locations where drainage channels intersect with continuous streets or alleys. All structures across public streets, alleys and sidewalks shall be designed for a twenty-five-year flood.

**§ A300-6. Minor drainage channels; surface drainage.**

All minor drainage channels which are located within or immediately adjacent to an improvement or a subdivision and all surface drainage conditions shall be protected and improved as follows:

- A. Minor drainage channels which have a primary function of collecting surface water from adjacent properties or intercepting and diverting side hill drainage shall be provided with an improved open channel.
- B. Any drainage not contained in a paved street must be contained in underground piping sized to handle a ten-year-flood capacity, and a paved emergency overflow must also be provided of such a size that the pipe and the overflow together with handle a fifty-year flood.
- C. A drainage channel shall not be located in a street easement unless it is placed in a closed storm sewer or unless a paved street surface is located on both sides of a paved drainage channel to give access to abutting properties.
- D. Site grading shall be carried out in such a manner that surface water from each lot will flow directly to a storm sewer, improved channel or paved street without crossing more than two adjacent lots.

- E. Surface water collected on streets shall be diverted to storm drains at satisfactory intervals to prevent the overflow of stormwater onto any lot during a fifty-year-frequency rain for the area and grades involved; provided, however, that in no case shall the drainage area served by one street exceed 20 acres, regardless of the amount of flow.
- F. Drainage easements of satisfactory width to provide working room for construction and maintenance shall be provided for all storm sewers. In no case shall the total easement be less than 20 feet.
- G. Open channels shall be improved by providing a paved section that will carry the runoff from a rain of twenty-five-year frequency and a sodded section to carry the runoff from a rain of fifty-year frequency. The design of the channel improvements shall be in accordance with the standards set forth on Figure A or Figure B.<sup>1</sup> Whenever an open improved channel is required or authorized for a minor drainage channel under the provisions of these regulations, and the channel crosses residential lots 80% or more of which have a width of not less than 90 feet and an area of not less than 13,500 square feet, and the channel improvement is to be designed as an integral part of the landscaping of the area that will be maintained by the property owners of the area, then the Town Board may modify the requirements of the first part of this subsection to permit a channel improvement design in accordance with Figure C.<sup>2</sup> The developer may elect to provide a paved section to accommodate runoff from a rain of fifty-year frequency, provided that sodding shall be carried out to the extent necessary to protect paved surfaces.

**§ A300-7. Requirements relating to improvements.**

- A. Bridges and culverts.
  - (1) Bridges or culverts shall be provided where watercourses cross continuous streets or alleys.
  - (2) Bridge and culverts shall be sized to accommodate a fifty-year-frequency rain, based on the drainage area involved.
  - (3) The design of bridges and culverts shall conform to town construction specifications.
- B. Closed storm sewers. Closed storm sewers shall be constructed of precast or prefabricated pipe or built, in place, of closed-box design to conform with town construction specifications to serve the required frequency rain for the drainage area involved.
- C. Open paved storm drainage. Open paved storm drainage channels shall be constructed in accordance with town specifications. Side slopes above the paved section shall be shaped and sodded on a slope of four horizontal to one vertical or flatter. Fences shall not be erected below the shoulder of the sodded section, and in no case shall fences be closer

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1. Editor's Note: Copies of Figures A and B, Improved Drainage Channels, are on file in the office of the Town Clerk.

2. Editor's Note: Copies of Figure C, Improved Drainage Channel, are on file in the office of the Town Clerk.

than six feet, measured horizontally, to the edge of the paved section unless the paved section is designed to handle the total fifty-year flood.

**§ A300-8. Miscellaneous requirements.**

- A. It shall be the policy of the Town Board, under the authority vested in the Town Drainage Ordinance,<sup>3</sup> to require the installation of sedimentation basins and erosion control measures in all new land development projects; details shall be such as are required by the Drainage Ordinance, these regulations and the requirements of the Director of Engineering and Planning or Town Consulting Engineer.
- B. It shall be the policy of the Town Board, under the authority vested in the Town Drainage Ordinance, to require the installation of permanent and/or temporary stormwater retention basins in new land development where, in the judgment of the Town Board and its Engineer, it is felt necessary in order to provide proper drainage control. Details shall be such as are required by the Drainage Ordinance, these regulations and the requirements of the Director of Engineering and Planning or Town Consulting Engineer. Adequate safety features, such as fencing, shall be provided where required by the town.
- C. The design and construction of new land development shall recognize the need and desirability of a comprehensive drainage plan to assure that no surface water is directed from one property to another in a manner as to create a temporary or permanent nuisance or hazard. To this end the developer shall indicate on his plans how he proposed to provide for this problem, and such plan shall be subject to review and approval by the Director of Engineering and Planning or Town Consulting Engineer, and, further, the town reserves the right to require a guaranty in the form of a letter of credit and/or a performance bond to assure that such plan is properly implemented. The developer shall provide an as-built drainage plan to substantiate that final grading conforms to the approved drainage plan.
- D. Prohibited acts. It shall be the policy of the Town Board, under the authority vested in the Town Drainage Ordinance, to prohibit the following acts:
  - (1) Place, deposit or permit to be placed or deposited any debris, fill, sand, stone or other solid materials of any kind or nature or construction of any kind into or across any stream, ditch, culvert, pipe, watercourse or other drainage system.
  - (2) Construct and/or place any ditch, pipe, culvert or artificial watercourse of any kind or nature which shall collect and direct the flow of natural surface waters or drainage or increase in intensity or quantity the flow of surface waters or drainage from paved surfaces, structures, roads or improvements directly into any stream, ditch, culvert, pipe or watercourse or other drainage system.
  - (3) Fill, obstruct, dam, divert or otherwise change or alter the natural or artificial flow of waters or drainage or the intensity or quantity of flows through any stream, ditch, pipe, culvert, watercourse or other improvement or drainage system.

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3. Editor's Note: See Ch. 84, Drainage, Art. II, Drainage Control.

- E. The developer's engineer shall submit, with his final plans, drainage calculations justifying the size of pipes, channels, impoundment basins and related structures.



## Chapter A301

### FEE SCHEDULES

**§ A301-1. Animal Control Fee Schedule.**

**§ A301-3. Miscellaneous fees.**

**§ A301-2. Department of Fire  
Marshal/Building Inspector  
Fee Schedule.**

**§ A301-4. Capital Parks Fund fees.**

**§ A301-1. Animal Control Fee Schedule. [Amended 9-2-2009 by Res. No. 16-176/2009;  
11-17-2010 by Res. No. 21-193/2010]**

<b>Type of Service</b>	<b>Fee</b>
Dog licenses	
Unspayed/unneutered	\$18
Spayed/neutered	\$9
Rabies vaccinations	\$15
Euthanasia fee	\$25
Transport and disposal of deceased(1)	\$25
Seizure fees (within a one-year time period)	
First time	\$15
Second time	\$25
Third time	\$35
Fourth time	\$45
Five or more times	\$55
Dog boarding fees (based on an overnight stay, minimum of \$10)	
Less than 24 hours	\$15
First overnight stay	\$15
Second overnight stay	\$25
Third overnight stay	\$35
Fourth overnight stay	\$45
Fifth overnight stay	\$55
Cat boarding fees	
Less than 24 hours	\$10
First overnight stay	\$10
Each additional 24 hours	\$10

§ A301-1

HENRIETTA CODE

§ A301-2

## Notes:

- (1) Plus a cremation rate of \$0.85 per pound if Suburban Animal Hospital disposes of the body.
- (2) Boarding fees for other animals: to be determined on an individual basis.
- (3) Except for unusual circumstances, after the fifth day the animal will be transferred to the Humane Society for adoption or euthanasia.
- (4) If the animal is to be boarded longer than five days, the owner of the dog will be responsible for paying the additional fees incurred directly to the animal hospital.

**§ A301-2. Department of Fire Marshal/Building Inspector Fee Schedule.** <sup>1</sup> [Amended 3-15-2006; 1-17-2007 by Res. No. 3-55/2007; 5-21-2008 by Res. No. 12-138/2008; 1-6-2010 by Res. No. 1-29/2010; 1-5-2011 by Res. No. 1-32/2011; 1-4-2012 by Res. No. 1-30/2012]

Type	Fee
New structures	
Residential	
One- and two-family dwellings	\$0.25 sf
Apartments and townhouses	\$0.30 sf
Commercial and industrial	
Commercial and industrial	\$0.35 sf
Large Project Surcharge	
Commercial and industrial (over \$500,000)	\$0.005 times project cost
(new construction, additions, renovations)	
Renovation	
Residential	\$50
Commercial and industrial	\$0.45 sf + \$150
Building additions	
Residential	Minimum \$50 or \$0.20 sf
Commercial and industrial	Minimum \$175 or \$0.40 sf
Accessory structures	
Residential	
Garage	\$50
Deck/Porch	\$50
Sheds	\$20
Pole barn or other similar structure	\$135
Gazebo	\$20
Ramps	\$50
Sunroom	\$50

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1. Editor's Note: The name of this Department was revised 2-15-2006 by L.L. No. 1-2006.



§ A301-2

## FEE SCHEDULES

§ A301-2

<b>Type</b>	<b>Fee</b>
Carport	\$50
Reroof	\$35
Commercial	
Storage shed	\$135
Dumpster enclosure	\$100
Dumpster	\$75
Certificates of occupancy	
Residential	\$45
One- and two-family dwellings	\$45
Apartments and townhouses (per unit)	\$65
Residential rental property, three years	\$500
Commercial	\$145
Certificates of compliance	
Residential	\$45
Commercial	\$135
Demolition	
Residential	\$100
Residential, small	\$25
Commercial	
Interior	\$300
Entire building	\$400
Relocation of building	\$350
Fences	
Residential	\$35
Commercial	\$130
Pools	
Residential	\$45
Commercial	\$200
Trailers	
Residential	\$150
Commercial	\$200
Plumbing	
Residential	\$3 per fixture plus \$50 permit
Commercial	\$4.50 per fixture plus \$100 permit
License	\$125
Stop-work orders	
Residential	\$100

§ A301-2

HENRIETTA CODE

§ A301-2

<b>Type</b>	<b>Fee</b>
Commercial	\$250
Rescind of order	\$100
Plan reviews	
Residential	
Residential	\$50
One- and two-family	\$65
Multiple dwelling	\$75
Commercial	
Normal review time	\$110
Expedited review time	\$155
Applications	
Town Board	\$100
Zoning Board	
Residential	\$45
Commercial	\$150
Planning Board	
Residential	\$100
Commercial	\$100
Signs	
New	Minimum \$65 or \$3.25 sf
Replacing sign copy	\$50
Grand opening (2-week maximum)	\$75
Going out of business (2-week maximum)	\$75
Special events and promotions (2-week maximum)	\$75
Reinspections	
Residential	\$50
Commercial	\$125
Inspections	
Residential	\$50
Commercial	\$120
After-hours inspections	
Residential	\$115
Commercial	\$250
Peddler, solicitor and vendor permits	
Company	\$200
Each individual	\$35
Video and arcade games	
Three machines or fewer	\$75, plus \$25 per machine

<b>Type</b>	<b>Fee</b>
Four machines or more	\$150, plus \$20 per machine
Commercial outdoor sales	\$175 plus \$0.25 per 5,000 sf
Professional services	
Zoning compliance letter	\$45
Professional review by staff, per hour	\$50
Professional services, per hour	\$75
Fire prevention	
Public assembly	\$100
Fire code	\$50
Alarm, commercial	\$50
Alarm, residential (permit required)	—
Hazardous materials/fuel dispensing	\$75
Elevator permit, per elevator	\$25
Fuel-fired appliances	\$50
Kiosk (indoor)	\$75
Tent	\$65
Use and occupancy	\$100
Day-care facility	\$100
Garage, vehicle repair	\$90
Hotel/Motel	\$250
Lumberyard	\$85
Multifamily residence	
First building	\$125
Subsequent buildings	\$75
Torch down roofing	\$75
Truss placard identification	\$50
Fire systems plan review and permit	\$125
Temporary fuel storage tank	\$125
Aboveground and underground tank closure or removal	\$100
Liquified petroleum gas (LPG)	
To install, maintain and operate LPG tank/container	
125 to 600 gallons	\$100
601 to 1,200 gallons	\$150
Over 1,200 gallons	\$200
Temporary LPG tank/container	\$100

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Type	Fee
To install, maintain and operate a propane exchange	
0 to 500 pounds	\$125
501 to 2,500 pounds	\$200
2,501 to 6,000 pounds	\$275
6,001 to 10,000 pounds	\$350
Over 10,000 pounds	\$500
Fire restoration	
Residential	
Permit	\$50
Certificate of occupancy	\$45
Professional services	\$50
Commercial	
Permit	\$0.40 sf + \$150
Certificate of occupancy	\$135
Plan review, per hour	\$95
Communication towers	
Construction of new tower	\$1,000
Co-location on existing tower	\$500
Special events/inspections	
Fire/Life safety inspections (carnivals/fairs/exhibits/trade shows and others)	\$125
Conduct a fireworks display	\$125
Air-supported temporary membrane structure over 200 square feet	\$125
Liquid- or gas-fueled vehicles or equipment in assembly buildings	\$125
Special amusement buildings (includes haunted houses)	\$125
Additional personnel standby fees/inspection of fireworks display fees: Standby/Fireworks display fees will be charged at a base rate of \$200. The complexity of the special event will determine the number of hours required. Additional fees will not be charged if the event is held during normal Town Hall business hours.	

### § A301-3. Miscellaneous fees.

#### A. Amusement centers (see § 20-5A). [Amended 3-15-2006]

- (1) Amusement centers which offer or operate only amusement games with four or more machines: \$125 plus \$15 per machine.
- (2) All other amusement centers which present any public amusement with three or fewer machines: \$60 plus \$20 per machine.

- B. Building numbers (see § 52-3): \$15.
- C. Floodplain development permit application (see § 125-11A): \$100 per acre.
- D. Sewer use (see § 219-2, definition of "household units").
  - (1) For each 30 milligrams of biochemical oxygen demand in excess of 300 or fraction thereof, an additional charge of \$0.053.
  - (2) For each 35 milligrams of suspended solids in excess of 350, an additional charge of \$0.053.
  - (3) For any sewage having the characteristics described in § 219-12C, an additional charge of \$0.53 per 100 cubic feet.
- E. Sewer rents for property within the Henrietta Sewer District No. 1 (see § 219-4): **[Amended 4-3-2002; 11-5-2003; 11-17-2004; 11-2-2005; 11-21-2007 by Res. No. 21-224/2007<sup>2</sup>; 3-2-2011 by Res. No. 6-88/2011]**

<b>Category</b>	<b>Rent</b>
Residential (billed annually through real property taxes)	\$50.98
Commercial (billed quarterly by Town of Henrietta Sewer Department)	
5/8 inch	\$16.28
1 inch	\$35.81
1.5 inches	\$70.46
2 inches	\$113.20
3 inches	\$143.20
4 inches	\$179
6 inches	\$215
8 inches	\$250.60
Overage usage rate, per 10 cubic feet	\$0.061
Commercial establishment surcharge	\$16.28

- F. Zoning (see § 295-62E).
  - (1) Appeals: \$150. **[Amended 3-15-2006]**
  - (2) An appeal involving a use variance: \$100.
  - (3) An application by the owner or his agent of a single-family dwelling for a variance or special permit incidental to the use or maintenance of said dwelling as a single-family dwelling, including but not limited to such matters as fence heights,

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2. Editor's Note: This resolution provided that the amended sewer rents will be effective for the year 2008.

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residential swimming pools, setbacks and similar requests: \$45. **[Amended 3-15-2006]**

G. Stormwater fees (if not posted in the project's letter of credit) (see Chapter 236). **[Added 5-7-2008 by L.L. No. 1-2008]**

(1) Erosion and sediment control inspection fee: \$150 per site visit. [NOTE: As specified in § 236-22, Inspections.]

**§ A301-4. Capital Parks Fund fees. [Added 2-1-2006 by Res. No. 4-65/2006]**

- A. Each lot in a subdivision: \$500.
- B. Each condominium unit for sale: \$500.
- C. Each townhouse unit for sale: \$500.
- D. Each duplex unit for sale: \$500.
- E. Each unit of a rental development: \$150.

# **DISPOSITION LIST**





## Chapter DL

### DISPOSITION LIST

#### § DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Henrietta adopted since the 2001 publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The last legislation reviewed for the 2001 publication of the Code was L.L. No. 3-2001, adopted 6-20-2001. The last legislation reviewed for the 2015 republication of the Code was Res. No. 21-256/2014.

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#### § DL-1. Disposition of legislation.

<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
L.L. No. 4-2001	9-5-2001	Veterans eligible funds tax adjustment	Ch. 250, Art. VII
L.L. No. 5-2001	10-3-2001	Alarm systems	Ch. 13
L.L. No. 1-2002	2-6-2002	Zoning amendment	Ch. 295
L.L. No. 2-2002	2-6-2002	Zoning amendment	Ch. 295
L.L. No. 3-2002	3-20-2002	Fire prevention amendment	Ch. 119
-----	4-3-2002	Fee schedule amendment	Ch. A301
L.L. No. 4-2002			NCM
L.L. No. 5-2002	12-4-2002	Persons with disabilities tax exemption amendment	Ch. 250, Art. V
L.L. No. 6-2002	12-4-2002	Tax exemption for senior citizens amendment	Ch. 250, Art. I
L.L. No. 1-2003	6-18-2003	Sewer rents amendment	Ch. 219, Art. I
-----	11-5-2003	Sewer rents amendment	Ch. A301
-----	11-19-2003	Vehicles and traffic amendment	Ch. 273
L.L. No. 2-2003	12-17-2003	Persons with disabilities tax exemption amendment	Ch. 250, Art. V
L.L. No. 3-2003	12-17-2003	Tax exemption for senior citizens amendment	Ch. 250, Art. I
L.L. No. 1-2004	4-21-2004	Moratorium on subdivisions south of NYS Thruway	NCM
-----	11-17-2004	Sewer rents amendment	Ch. A301

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<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
L.L. No. 1-2005	1-19-2005	Moratorium on subdivisions south of NYS Thruway	NCM
-----	4-6-2005	Zoning amendment	Ch. 295
L.L. No. 2-2005	7-20-2005	Zoning amendment	Ch. 295
-----	11-2-2005	Sewer rents amendment	Ch. A301
L.L. No. 3-2005	12-7-2005	Alternative veterans tax exemption amendment	Ch. 250, Art. IV
Res. No. 4-65/2006	2-1-2006	Fee schedules amendment	Ch. A301
L.L. No. 1-2006	2-15-2006	Establishing position and Department of Fire Marshal/Building Inspector; abolishing title of "Building and Development Coordinator and/or Building Inspector"; amending various references	Ch. 1; Ch. 48; Ch. 119; and references throughout Code
L.L. No. 2-2006	3-1-2006	Zoning amendment	Ch. 295
Res. No. 7-82/2006	3-15-2006	Fees amendment	Ch. A301
L.L. No. 3-2006	9-6-2006	Property maintenance amendment; abandoned, junked and unlicensed vehicles; junk storage	Ch. 205; Ch. 207; Ch. 209
L.L. No. 4-2006	9-6-2006	Alternative veterans tax exemption amendment	Ch. 250, Art. IV
L.L. No. 5-2006	1-17-2007	Tax exemption for senior citizens amendment	Ch. 250, Art. I
Res. No. 3-55/2007	1-17-2007	Fee schedules amendment	Ch. A301
L.L. No. 1-2007	1-17-2007	Persons with disabilities tax exemption amendment	Ch. 250, Art. V
Res. 18-196/2007	10-3-2007	Sewer impact fees	Ch. 219, Art. III
L.L. No. 2-2007	11-21-2007	Real property tax exemption for Cold War veterans	Ch. 250, Art. VIII
Res. 21-224/2007	11-21-2007	Sewer rents amendment	Ch. A301
L.L. No. 1-2008	5-7-2008	Stormwater management; fee schedules amendment	Ch. 236; Ch. A301
Res. No. 12-138/2008	5-21-2008	Fee schedules amendment	Ch. A301
L.L. No. 2-2008	8-20-2008	Flood damage prevention	Ch. 125
Res. No. 16-176/2009	9-2-2009	Fee schedules amendment	Ch. A301

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<b>Enactment</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
Res. No. 19-186/2009	10-7-2009	Vehicles and traffic amendment	Ch. 273
L.L. No 1-2009	12-16-2009	Residency of Town Superintendent of Highways	Ch. 176, Art. IV
Res. No. 1-29/2010	1-6-2009	Fee schedules amendment	Ch. A301
L.L. No. 1-2010/Res. No. 21-193/2010	11-17-2010	Dogs; fees amendment	Ch. 79; Ch. A301
Res. No. 1-32/2011	1-5-2011	Fee schedules amendment	Ch. A301
L.L. No. 1-2011/Res. No. 6-87/2011	3-2-2011	Sewers: commercial establishment surcharges	Ch. 219, Art. III
Res. No. 6-88/2011	3-2-2011	Fee schedules amendment	Ch. A301
L.L. No. 2-2011	10-5-2011	Abandoned, junked and unlicensed vehicles amendment; driveways amendment; obstructions	Ch. 207; Ch. 240, Art. I and Art. III
L.L. No. 3-2011	12-7-2011	Zoning amendment	Ch. 295
Res. No. 1-30/2012	1-4-2012	Fee schedules amendment	Ch. A301
L.L. No. 1-2013	10-16-2013	Zoning amendment	Ch. 295
L.L. No. 2-2013	11-6-2013	Zoning amendment	Ch. 295
Res. No. 10-123/2014	5-7-2014	Vehicles and traffic amendment	Ch. 273
L.L. No. 1-2014	6-18-2014	Ethics	Ch. 109
L.L. No. 2-2014	9-17-2014	Taxpayer assistance program for 2014	NCM
Res. No. 21-256/2014	11-19-2014	Vehicles and traffic amendment	Ch. 273



# INDEX



## ZONING

### 295 Attachment 1

#### **Town of Henrietta Table of Zoning Map Amendments**

*The table below summarizes the zoning changes made to former § 295-67, Zoning descriptions, in the 2001 Town Code.*

<b>Res. No.</b>	<b>Adoption Date</b>	<b>Description of Change</b>
	11-15-1978	Rezone property east of West Henrietta Road and west of Lehigh Valley Railroad to B-1
	4-18-1979	Planned Unit Development District
	5-7-1980	Town Lots 14, 16, 18 and 20, Fourth Range, Township 12, Range 7, to I District
	11-19-1981	Rezoning property near Calkins Road to I District
	12-15-1982	PCD Planned Commercial District
	4-20-1983	Krenzer Farm (High Tech Park) in regard to I District
	8-17-1983	Krenzer Farm (High Tech Park) from I to R-1-15
	3-7-1984	Land north of Lehigh Station Road, west of the Genesee Expressway, south of Calkins Road and east of West Henrietta Road to I
	10-3-1984	Property near Jefferson Road and Edgewood Avenue in relation to the R-1-20 and R-2-15 Districts
	10-17-1984	Rezone property at Lehigh Station Road and Middle Road from I to R-1-15
	12-19-1984	Rezone property west of East Henrietta Road near Wright Road and Calkins Road to B-1
	3-20-1985	Rezone property near Wright Road and Lehigh Station Road from R-1-15 to R-2 Rezone approximately 22 acres at East Henrietta Road and Wright Road from R-1-15 to B-2
	5-15-1985	Rezone approximately 106.8 acres located on the northwest corner of the intersection of Erie Station Road and Genesee Expressway to I
	6-5-1985	Rezone approximately 11 acres of Tax Map Nos. 176.06 and 176.10 to B-2
	2-5-1986	Add property at southwest corner of Winton Road South and Castle Road to R-2-15
	11-5-1986	Rezone property at Erie Station Road at Erie Railroad right-of-way to I
	4-1-1987	Rezone property east of Pinnacle Road and north of Stone Road from R-1-20 to R-2-15 Rezone portion of Town Lot 22 from B-1 to I Rezone property lying west of the 500-foot commercial strip fronting on the west side of West Henrietta Road to B-1 Rezone approximately 21.61 acres near New York State Thruway to I
	5-20-1987	Rezoning property near Lehigh Station Road and Lehigh Valley Railroad in regard to I District
	7-15-1987	Rezone property near East Henrietta Road and Erie Station Road to R-2-15

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Res. No.	Adoption Date	Description of Change
	10-21-1987	Rezone property near West Henrietta Road and Tax Account No. 175.030-01-004 to B-1 Rezone property on east side of East Henrietta Road north of Castle Road to B-2 Rezone property at East River Road and Erie Station Road to I
	11-4-1987	Rezoning property near Lehigh Station Road and Lehigh Valley Railroad in regard to I District
	1-6-1988	Rezoning of property near Jefferson Road in I District
	2-17-1988	Property near West Henrietta Road and Leigh Station Road to B-1
	6-15-1988	Add property near West Henrietta Road and Thruway Park Drive to R-2-15
	8-17-1988	Add property near West Henrietta Road and Lehigh Station Road to R-2-15; rezone property near Tax Account No. 175.030-01-003.113 and Tax Account No. 189.010-01-030 to B-1 Rezone property at Bailey Road and John Street to I
	2-1-1989	Rezone property near East Henrietta Road and Lehigh Station Road to B-2 Rezone property on West Henrietta Road to I
	3-15-1989	Rezone property near Erie Station Road to I
	7-19-1989	Rezoning property near Lehigh Station Road and Lehigh Valley Railroad in regard to I District
	5-2-1990	Rezone property at the north corner of West Henrietta Road and Rush-Henrietta Town Line Road in relation to B-1 Rezone property near West Henrietta Road and Rush-Henrietta Town Line Road to I
	6-5-1991	Rezone property from West Henrietta Road to Winton Road and Brighton-Henrietta Town Line Road to Jefferson Road in relation to I District PCD amendment
	8-19-1992	Rezone property near the intersection of Calkins Road and East Henrietta Road to B-1
	5-19-1993	Add property near East Henrietta Road and Erie Station Road to R-2-15
	3-22-1994	Rezoning of property in I District ILCD Industrial/Limited Commercial District
	2-3-1999	Add property near Erie Station Road and Tax Account No. 189.10-01-056 to R-2-15
	4-21-1999	Add property near Florendin Drive and Lehigh Station Road to R-2-15
	7-21-1999	Add property near Erie Station Road and Tax Account No. 188.020-01-017.2 to R-2-15
	11-15-2000	Rezone part of Tax Map No. 176.06-1-74.1 from B-1 to R-2-15 Rezone Thruway Authority Property located on the west and east sides of West Henrietta Road from R-1-15 to B-1 Rezone Tax Map Nos. 150.17-2-19 and 150.17-2-20 from R-1-15 to I
	2-7-2001	Rezone Thruway Authority property west of I-390 and north of I-90 from R-1-15 to I
	7-17-2002	Rezone Tax Account No. 150.180-01-03.1 from R-1-15 to I
	11-5-2003	Rezone Tax Account No. 202.01-2-43 from R-1-15 to I



## ZONING

Res. No.	Adoption Date	Description of Change
4-63/2004	2-4-2004	Rezone Tax Account No. 149.20-2-17 (Valley Cadillac Hummer) from R-1-15 to I
	3-19-2004	Rezone Gordon Parcel from R-1-15 to B-1
	6-2-2004	Rezone approximately 12 acres from a 26.68-acre parcel of land identified as Tax Account No. 161.19-1-1.1, located north of Bailey Road and behind properties between 3855 and 3995 West Henrietta Road, from R-1-15 to B-1
	10-20-2004	Rezone a portion of Township 12, of the Seventh Range, Range Four, from R-1-15 to B-1 Rezone property near Tax Map No. 175.08-1-26 from R-1-15 to B-2
	4-20-2005	Rezone approximately 43.21 acres of land identified as Tax Account Nos. 162.05-1-3.11 (32.46 acres), 162.05-1-3.41 (10.37 acres) and 162.05-1-3.42 (0.37 acres) located on the north side of Jefferson Road and west of Clay Road from I to B-1
	6-15-2005	Rezone Wegmans Food Market parcel on Calkins Road to B-1
L.L. No. 2-2005	7-20-2005	RR-1 Rural Residential District East (with central sewer) RR-1 Rural Residential District West (with central sewer) RR-2 Rural Residential District East (without central sewer) RR-2 Rural Residential District West (without central sewer)
	7-20-2005	Rezone Tax Account No. 189.02-1-8.1 from R-1-20 to R-2-15
	9-7-2005	Rezone property on Bailey Road from R-1-15 to B-1 (Gordon Parcel)
9-116/2006	4-19-2006	Rezone Burns Subdivision from RR-2 to RR-1
	6-7-2006	Rezone 3400 East River Road from R-1-15 to R-2-15
	7-19-2006	Rezone property near New York State Thruway and Tax Account No. 189.01-1-17 from R-1-15 to B-1
4-62/2007	2-7-2007	Tax Account Numbers 189.01-1-18.1, 189.01-1-18.2, 189.02-1-1, 189.02-1-2, 189.02-1-3, and part of 189.02-1-4 and 189.02-1-5 from R-1-20 to RR-2 RR-2 Rural Residential District, Erie Station Road parcels (without central sewer)
10-123/2008	5-7-2008	Rezone part of Town Lot 12, Fourth Range of Lots in Township 12, Seventh Range of Townships, from R-1-15 to B-2
14-150/2008	6-18-2008	Rezone Tax Account No. 162.17-1-14 from R-1-15 to R-2-15
4-56/2009	2-4-2009	Rezone 1749 Jefferson Road from R-1-20 to R-2-15
7-83/2009	3-18-2009	Rezone Tax Account Nos. 1623.09-1-1.1, 1.2 and 23 from I to B-1
2-49/2011	1-5-2011	Rezone property at 705 Calkins Road to R-2-15
11-112/2012	5-16-2012	Rezone Tax Account Nos. 174.03-2-1.2, 174.02-2-2.0 and 188.01-1-8.121 (3 acres on East River Road) from Industrial or R-1-15 to R-2-15
14-128/2013	7-17-2013	Rezone Tax Account No. 174.02-1-44 (15.563 acres on John Street) from R-1-15 to I
12-147/2014	6-4-2014	Rezone Tax Account No. 175.01-1-2 (22.344 acres on John Street) from R-1-15 to I
18-220/2014	10-1-2014	Rezone Tax Account Nos. 174.02-1-20 (73 acres on East River Road) and 174.02-1-5.1 (2.35 acres on Bailey Road) from R-1-15 to I