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TOWN OF GRAFTON**

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CERTIFICATION

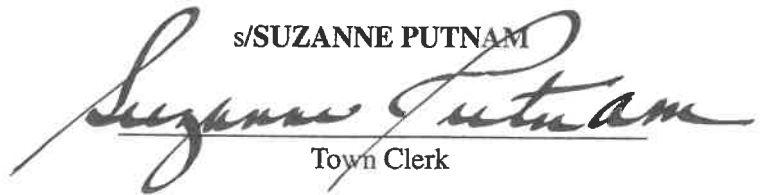
TOWN OF GRAFTON

Office of the Town Clerk

I, **SUZANNE PUTNAM**, Clerk of the Town of Grafton, New York, hereby certify that the chapters contained in this volume are based upon the original local laws, ordinances and resolutions of the Town Board of the Town of Grafton, and that said local laws, ordinances and resolutions, as revised and codified, renumbered as to sections and rearranged into chapters, constitute the Code of the Town of Grafton, County of Rensselaer, State of New York, as adopted by local law of the Town Board on December 9, 1999.

Given under my hand and the Seal of the Town of Grafton, County of Rensselaer, State of New York, this ninth day of December 1999, at Grafton, New York.

s/SUZANNE PUTNAM



Town Clerk

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PREFACE

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

Contents of Code

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

Division of Code

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

Grouping of Legislation and Arrangement of Chapters

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

Table of Contents

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

Reserved Chapters

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

Pagination

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

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

Scheme

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

Histories

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

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PART I

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

ARTICLE I
Adoption of Code
[Adopted 12-9-1999 by L.L. No. 1-1999]

Be it enacted by the Town Board of the Town of Grafton, County of Rensselaer, New York, as follows:

§ 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 Grafton, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 225, together with an Appendix, shall be known collectively as the "Code of the Town of Grafton," 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 Grafton" 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 Grafton, 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 Grafton 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 Grafton 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 Grafton 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 Grafton.
- D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Grafton.
- E. Any local law or ordinance of the Town of Grafton 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 Grafton or any portion thereof.
- F. Any local law or ordinance of the Town of Grafton 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 Grafton 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.

Codification Amendments and Revisions

New chapters adopted during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where the legislation adopting this Code and making such revisions will appear after final enactment. Sections amended or revised are indicated in the text by means of Editor's Notes referring to the chapter cited above.

General References; Editor's Notes

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

Appendix

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

Disposition List

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

Index

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

Instructions for Amending the Code

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

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

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

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6). **NOTE:** In chapters where articles appear on the Table of Contents, simply add new articles to the end of the chapter since they are not arranged by subject matter.

Supplementation

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

Acknowledgment

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

- 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 1-15-1999.

§ 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 Grafton 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 Grafton 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 Grafton" 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 Grafton 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 Grafton or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Grafton 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 Grafton, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the 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.)¹

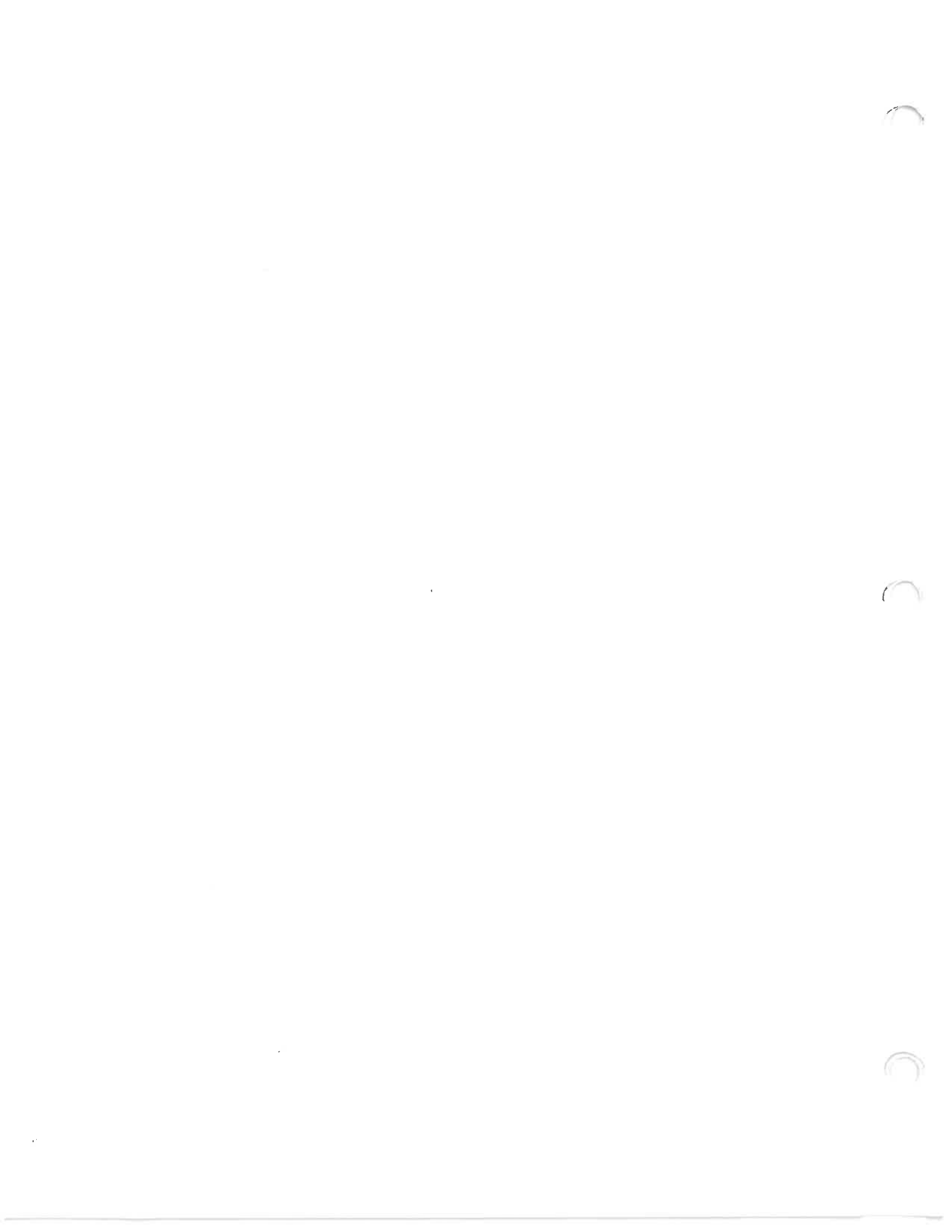
§ 1-12. Incorporation of provisions into Code.

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

§ 1-13. When effective.

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

¹ Editor's Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Art. I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 12-9-1999 by L.L. No. 1-1999." Schedule A, which contains a complete description of all changes is on file in the town offices.



Chapter 5
ASSESSMENT

Article 1
Assessors

- § 5-1 Assessor Position to be Appointed
- § 5-1(a-d) Title, Authority, Intent and
Abolition of the Offices of the Board of
3 Elected Assessors
- § 5-1(e-h) Inconsistency, Savings Clause,
Referendum Clause, Effective Date

[HISTORY: Adopted by the Town Board of the Town of Grafton as as indicated in article histories.]
(Amended by L.L. No. 1 of 2010 on July 8, 2010 Effective Upon Filing with the Secretary of State)

General References
Taxation – See Ch. 209

Article II
Board of Assessment Review

- § 5-3. Membership
- § 5-4. Terms of Office
- §5-5. Payment of Members for Services
- §5-6. Powers and Duties

Article I – ASSESSORS

(Amended by L.L. No. 1 of 2010 on July 8, 2010)

§ 5-1 Sole Assessor position to be appointed. (1)

§ 5-1 (a) – Title. A Local Law to establish the office of sole appointed assessors pursuant to Real Property Tax Law was adopted by the Town Board on July 8, 2010, effective

§ 5-1 (b)–Authority. This local law was adopted pursuant to Real Property Tax Law Section 328.

§ 5-1 (c)–Intent. It is the intent of the Local Law No. 1 of 2010 to abolish the board of three elected assessors in the Town of Grafton and to substitute, therefore, a single appointed assessor pursuant to Real Property Tax Law Section 310.

§ 5-1 (d)–Abolition of the Offices of the Board of Three Elected Assessors. The offices of the three elected assessors as previously established and continued by the Town of Grafton are hereby abolished. The term or terms of the three elected assessors shall terminate on December 31, 2010.

(1) Editors Note: This article was amended and approved by L.L. 1 of 2010 on July 8, 2010

§ 5-1 (d)–Abolition of the Offices of the Board of Three Elected Assessors. (continued) In the place and stead of the board of three elected assessors, the Town of Grafton shall have one (1) single assessor to be appointed by the Town Board of the Town of Grafton.

§ 5-1 (e)–Inconsistency. All other local laws and ordinances of the Town of Grafton that are inconsistent with the provisions of this local law, including previous Town Code Sections 5-1 and 5-2 are hereby repealed; provided however, that such repeal shall only be to the extent of such inconsistency and in all other respects this local law shall be in addition to such other local laws or ordinances regulating and governing the subject matter covered by Local Law No. 1 of 2010.

§ 5-1 (f)–Savings Clause. If any clause, sentence, paragraph, word, section or part of Local Law 1 of 2010 shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation of the clause, sentence, paragraph, worked section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 5-1 (g)- Referendum Clause. Pursuant to Chapter 521 of the Laws of 2006, this local law shall not be subject to a referendum.

§ 5-1 (h)-Effective Date. This Local Law 1 of 2010 shall be effective immediately upon filing with the New York Secretary of State.

ARTICLE II

Board of Assessment Review

[Adopted 12-13-1971; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 5-3. Membership.

The Board of Assessment review shall consist of five members appointed by the Town Board. Members shall have a knowledge of property values in the town. Neither an Assessor nor any member of his or her staff may be appointed to the Board of Assessment Review. The Board shall not contain any elected officials.

§ 5-4. Terms of office.

The terms of office of members of the Board of Assessment Review shall be five years and shall commence on the first day of October and terminate on the 30th day of September, five years thereafter. In the case of the first Board appointed under the provisions of this article, however, the terms shall be of such length that not more than one will expire in each of the first five years after the members of such Board are appointed.

§ 5-5. Payment of members for services.

The members of the Board of Assessment Review shall be paid for the respective services at the annual meeting to hear complaints and at subsequent adjourned hearings thereof, if any, in an amount determined from time to time by the Town Board.

§ 5-6. Powers and duties.

The foregoing Board of Assessment Review shall have all the powers and duties set forth in § 523 of the Real Property Tax Law.



Chapter 13

DRUG-FREE WORKPLACE

§ 13-1. Drug-free workplace statement.

Drug-Free Workplace Plan

[HISTORY: Adopted by the Town Board of the Town of Grafton 1-13-1992. Amendments noted where applicable.]

§ 13-1. Drug-free workplace statement.

- A. The Town of Grafton will provide a drug-free workplace for all employees within any town offices. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the town offices of Grafton.
- B. Any town employee found to be in violation of the above prohibition will be required to participate successfully in a drug abuse treatment/rehabilitation program. If the employee refuses to participate in a treatment program, that employee will be terminated on 30 days' written notice.
- C. The town has adopted a drug-free workplace plan that will be used as a guide when a violation by a town employee or official has been committed.¹
- D. It is a requirement of the Town of Grafton that this statement will be provided to all new employees and officials as well as present employees and officials.

¹ Editor's Note: The Drug-Free Workplace Plan is included at the end of this chapter.



DRUG-FREE WORKPLACE

Town of Grafton

Drug-Free Workplace Plan

The Town of Grafton realizes the dangers of drug abuse in the workplace and has implemented this plan to assure all employees a work environment that is drug-free. This document includes all requirements that form the Grafton Drug-Free Workplace Plan.

Drug-Free Awareness Program

The Town of Grafton has implemented and maintains a drug-free awareness program. This program will be administered out of the Grafton Housing Rehabilitation Office. This drug-free awareness program consist of the following components:

1. The dangers of drug abuse in the workplace. The use of illegal drugs in any form presents a health and safety hazard to not only the users of drugs, but to individuals around them.

Drug use in the workplace compounds and magnifies this problem. A work environment consists of a group of individuals depending on each other to perform specific duties. If one or more of those individuals are using drugs, this system breaks down. This may result in problems as minor as a decrease in work output, or in some cases may cause an accident resulting in serious injury or even death to the drug user or individuals working around them.

The health hazards associated with the use of illegal drugs has been fully documented and reported. Drug use in the workplace will, in all probability, lead to reduced output from the employee using drugs, a high rate of absenteeism and a higher accident rate. Additionally, the cost of long-term health care required as a result of prolonged drug use will be prohibitive.

2. Policy on drug-free workplace. Grafton realizes the inherent dangers of drug use in the workplace and has implemented a policy to ensure that the town offices will remain drug free. This policy includes the following objectives:

The Town of Grafton will make anti-drug use educational outreach efforts to all employees and officials of the Town of Grafton. This will include making available all pertinent information in regards to the dangers of drug use, especially in the workplace.

The town will also make available drug counseling and rehabilitation services to any employees who are found to be manufacturing, distributing, dispensing, possessing or using any controlled substance in the workplace.

To ensure compliance with the town's drug-free workplace plan, Grafton has adopted a strict policy aimed at discouraging and eliminating drug use in the workplace. Any employees or officials of the town found to be in violation of the prohibited activities included in the town's drug-free workplace statement will be required to enter into a drug rehabilitation and counseling program. This program will be provided at no cost to the individual found to be in violation. The individual will be allowed to return to service for the town at the conclusion of their drug treatment program.

GRAFTON CODE

If the individual found to be in violation of the prohibited activities included in the town's drug-free workplace statement refuses to enter into a drug treatment program, they will be given a thirty-day notice and then will be terminated.

3. Drug-free workplace statement. All employees and officials of the town will be provided with a copy of the Town of Grafton Drug-Free Workplace Statement and the Drug-Free Workplace Plan.
4. Employee notification. As a condition of employment or continued employment, all employees and officials and any future employees and officials shall agree to:
 - (a) Abide by the terms of the Drug-Free Workplace Statement.
 - (b) Notify the Town of Grafton of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
5. Notification to the United States Department of Housing and Urban Development. The Town of Grafton will notify the U.S. Department of Housing and Urban Development, in writing, within 10 days after receiving notice [under item 4(b), above] from an employee or otherwise receiving actual notice of such conviction. This notification to HUD will consist of the convicted employee's name and title.
6. Continued drug-free workplace efforts. By implementing this Drug-Free Workplace Plan, the Town of Grafton intends to continue its efforts to prevent drug use in the workplace. Town officials will continue to monitor the success of this program and will amend this plan as necessary.

This plan was adopted at the Town of Grafton regular Board meeting held on January 13, 1992.

Chapter 17
ETHICS, CODE OF

ARTICLE I
Intent of Town Board

- § 17-1. **Statement of legislative intent.**
- § 17-2. **Construal of provisions.**

ARTICLE II
Code of Ethics

- § 17-3. **Definitions.**
- § 17-4. **Conflicts of interest.**
- § 17-5. **Standards of conduct.**
- § 17-6. **Penalties for offenses.**

ARTICLE III
Board of Ethics

- § 17-7. **Board established.**
- § 17-8. **Powers and duties.**
- § 17-9. **Rules of procedure; maintenance of records.**

ARTICLE IV
Administration

- § 17-10. **Distribution of Code of Ethics.**
- § 17-11. **Filing of copy with state.**
- § 17-12. **Appropriation of funds.**

[HISTORY: Adopted by the Town Board of the Town of Grafton at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

ARTICLE I
Intent of Town Board

§ 17-1. Statement of legislative intent.

The Town Board of the Town of Grafton recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to downgrade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort 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 chapter 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 for herein.

§ 17-2. Construal of provisions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the

conduct of town officers to the extent that the same are more severe in their application than this chapter.

ARTICLE II Code of Ethics

§ 17-3. Definitions.

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

INTEREST — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an “interest” in the contract of:

- A. His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves.
- B. A firm, partnership or association of which such officer or employee is a member or employee.
- C. A corporation of which such officer or employee is an officer, director or employee.
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

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

TOWN OFFICER OR EMPLOYEE — An officer or employee of the Town of Grafton, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a Fire Chief or assistant Fire Chief.

§ 17-4. Conflicts of interest.

No town 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 duties in the public interest.

§ 17-5. Standards of conduct.

- A. No town employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.
- B. No town employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.

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

§ 17-6. Penalties for offenses.

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

ARTICLE III
Board of Ethics

§ 17-7. Board established.

There is hereby established a Board of Ethics consisting of three members to be appointed by the Town Board, all of whom reside in the Town of Grafton, and who shall serve without compensation and at the pleasure of the Town Board of the Town of Grafton. A majority of such members shall be persons other than town employment but shall include at least one member who is an elected or appointed town employee of the Town of Grafton.

§ 17-8. Powers and duties.

The Board of Ethics established hereunder shall render advisory opinions to town 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 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.

§ 17-9. Rules of procedure; maintenance of records.

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

**ARTICLE IV
Administration**

§ 17-10. Distribution of Code of Ethics.

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

§ 17-11. Filing of copy 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.

§ 17-12. Appropriation of funds.

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

Chapter 22

FIXED ASSETS

- | | |
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| <p>§ 22-1. Designation of property manager; responsibilities.</p> <p>§ 22-2. Derivation and development of fixed asset records.</p> | <p>§ 22-3. Forms for recording fixed assets; distribution.</p> <p>§ 22-4. Yearly inventory.</p> |
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[HISTORY: Adopted by the Town Board of the Town of Grafton 8-11-1997. Amendments noted where applicable.]

§ 22-1. Designation of property manager; responsibilities.

The Town Board of the Town of Grafton hereby designates the Building Inspector's Office as the property manager responsible for development and maintenance of fixed asset records for all property with a value of \$1,000 or more.

§ 22-2. Derivation and development of fixed asset records.

Said fixed asset records shall be derived from fixed asset inventory now in existence. The property manager shall develop, in writing, the basic rules and regulations to be followed in developing and maintaining the fixed asset property records.

§ 22-3. Forms for recording fixed assets; distribution.

The Property Manager shall develop the forms necessary for recording the fixed assets and to be distributed to each department.

§ 22-4. Yearly inventory.

An inventory shall be presented to the Town Board on or about September 1 of each year.



Chapter 27

INVESTMENT POLICY

§ 27-1. Objectives.

§ 27-3. Deposit of funds by town officials.

§ 27-2. Approved investment options.

§ 27-4. Conditions of investments.

[HISTORY: Adopted by the Town Board of the Town of Grafton 1-5-1998. Amendments noted where applicable.]

§ 27-1. Objectives.

The objectives of the investment policy of the Town of Grafton are:

- A. To minimize risk.
- B. To ensure that investments mature when cash is required to finance operations.
- C. To ensure a competitive rate of return.

§ 27-2. Approved investment options.

- A. In accordance with this policy, the Chief Fiscal Officer is hereby authorized to invest all funds, including proceeds of obligations and reserve funds, in:
 - (1) Certificates of deposit issued by a bank or trust company to do business in New York State.
 - (2) Time deposit accounts in a bank or trust company authorized to do business in New York State.
 - (3) Obligations of New York State.
 - (4) Obligations of the United States Government.
- B. All funds except reserve funds may be invested:
 - (1) In obligations of agencies of the federal government if principle and interest is guaranteed by the United States.
 - (2) With the approval of the State Comptroller, in Reserve Anticipation Notes or Tax Anticipation Notes of other local governments.
- C. Only reserve funds may be invested in:
 - (1) Obligations of the local government.

§ 27-3. Deposit of funds by town officials.

All other Town of Grafton officials receiving money in their official capacity must deposit such funds in negotiable order of withdrawal accounts.

§ 27-4. Conditions of investments.

All investments made pursuant to this investment policy shall comply with the following conditions:

A. Collateral.

- (1) Certificates of deposit shall be fully secured by insurance of the Federal Deposit Insurance Corporation or by obligations of New York State or by obligations of the United States or obligations of federal agencies, the principal and interest of which are guaranteed by the United States, or obligations of New York State local governments. Collateral shall be delivered to the local government or custodial bank with which the local government has entered into a custodial agreement. The market value of collateral shall at all times equal or exceed the principal amount of the certificate of deposit. Collateral shall be monitored no less frequently than monthly, and market value shall be the bid or closing price as quoted in the Wall Street Journal or as quoted by another recognized pricing system.
- (2) Collateral shall not be required with respect to the direct purchase of obligations of New York State, obligations of the United States and obligations of federal agencies, the principal and interest of which are guaranteed by the United States Government.

B. Delivery of securities. Payment shall be made by or on behalf of the local government for obligations of New York State, obligations the principle and interest of which are guaranteed by the United States, United States Obligations, certificates of deposit, and other purchased securities upon the delivery thereof to the custodial bank, or in the case of a book-entry transaction, when the purchased securities are credited to the custodial bank's federal reserve system account. All transactions shall be confirmed in writing.

C. Written contracts.

- (1) Written contracts are required for certificates of deposit and custodial undertakings. With respect to the purchase of obligations of the United States, New York State or other governmental entities, etc., in which moneys may be invested, the interests of the local government will be adequately protected by conditioning payment on the physical delivery of purchased securities to the local government or custodian, or in the case of book-entry transactions, on the crediting of purchased securities to the custodian's Federal Reserve System account. All purchases will be confirmed, in writing, to the local government.
- (2) It is, therefore, the policy of the Town of Grafton, to require written contracts as follows:
 - (a) Written contracts shall be required for the purchase of all certificates of deposit.

- (b) A written contract shall be required with the custodial bank, if a custodial bank is chosen.
- D. Designation of custodial bank. A bank or trust company chartered by the State of New York is designated to act as a custodial bank for the Town of Grafton's investments in accordance with the guidelines of the New York State Comptroller's Office.



Chapter 32 MEETINGS

§ 32-1. Board meetings open to the public; exception.

§ 32-2. Prior notice of meeting.

§ 32-3. Location of meetings.

§ 32-4. Town bulletin board.

§ 32-5. Minutes.

§ 32-6. Provisions to be in accordance with state law.

[HISTORY: Adopted by the Town Board of the Town of Grafton 6-12-1978. Amendments noted where applicable.]

§ 32-1. Board meetings open to the public; exception.¹

Every meeting of the Town Board shall be open to the general public, except that an executive session of such body shall be called and business transacted thereat in accordance with § 105 of the New York State Public Officers Law.

§ 32-2. Prior notice of meeting.

- A. The Town Clerk of the Town of Grafton shall give public notice of the time and place of a meeting scheduled at least one week prior thereto to the public and news media at least 72 hours before such meeting.
- B. Public notice of the time and place of every other meeting shall be given, to the extent practicable, to the public and news media at a reasonable time thereto.
- C. The public notice provided for above shall not be construed to require publication as a legal notice.

§ 32-3. Location of meetings.

The Town Board and every agency of the town shall make all reasonable efforts to ensure that meetings are in facilities that permit barrier free physical access to the physically handicapped.

§ 32-4. Town bulletin board.²

The Town of Grafton shall maintain a town bulletin board on the exterior of the Town Hall for the posting of notices of all meetings.

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

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

§ 32-5. Minutes.

- A. Minutes shall be taken at all open meetings of a public body which shall consist of a record or summary of all motions, proposals, resolutions and any other matter formally voted upon and the vote thereon.
- B. Minutes shall be taken at all executive sessions of any action that is taken by formal vote, which shall consist of a record or summary of the final determination of such action, and the date and vote thereon; provided, however, that such summary shall not include any matter which is not required to be made public by the Freedom of Information Law.
- C. Minutes of meetings of all public bodies shall be available to the public in accordance with, and to the same extent and in the same manner as is authorized for governing bodies by the provisions of the Freedom of Information Law, except that minutes taken pursuant to Subsection B hereof shall be available to the public within one week from the date of the executive session.

§ 32-6. Provisions to be in accordance with state law.

The provisions of this chapter shall be deemed to be in accord with Article 7 of the New York State Public Officers Law and any amendment thereto shall become a part of this chapter.

Chapter 46

PROCUREMENT POLICY

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| <p>§ 46-1. Purpose; intent.</p> <p>§ 46-2. Determination of purchase type.</p> <p>§ 46-3. Purchases subject to formal bid.</p> <p>§ 46-4. Method of purchase;
documentation required.</p> <p>§ 46-5. Awarding of contracts.</p> | <p>§ 46-6. Obtaining required number of proposals.</p> <p>§ 46-7. Exceptions.</p> <p>§ 46-8. Emergency purchase.</p> <p>§ 46-9. Annual review.</p> |
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[HISTORY: Adopted by the Town Board of the Town of Grafton 1-11-1999. Amendments noted where applicable.]

§ 46-1. Purpose; intent.

- A. Section 104-b of the General Municipal Law requires every town to adopt internal policies and procedures governing all procurement of goods and services not subject to the bidding requirements of General Municipal Law § 103 or any other law.
- B. It is the intent of this Board to follow all purchasing regulations and policies as prescribed in the General Municipal Law.
- C. The Town of Grafton does hereby adopt the following procurement policies and procedures.

§ 46-2. Determination of purchase type.

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 canvass of the other town departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity. This collection of estimates shall be turned in when the Chief Fiscal Officer calls for in his/her annual budget call.

§ 46-3. Purchases subject to formal bid.

All purchases of supplies or equipment which will exceed \$9,999 in the fiscal year or public works contracts exceeding \$20,000 shall be formally bid pursuant to General Municipal Law § 103.

§ 46-4. Method of purchase; documentation required.**A. All estimated purchases of:**

- (1) Less than \$10,000 but greater than \$5,000 require a written request for a proposal (RFP) and written/fax quotes from more than three vendors.
- (2) Less than \$5,000 but greater than \$1,000 require a written request for a proposal (RFP) and written/fax quotes from three vendors.
- (3) Less than \$1,000 but greater than \$500 require more than three oral quotes from vendors.
- (4) Less than \$500 are left to the discretion of the purchaser.

B. All estimated public works contracts of:

- (1) Less than \$20,000 but greater than \$10,000 require a written RFP and written/fax quotes from more than three contractors.
- (2) Less than \$10,000 but greater than \$5,000 require a written RFP and written/fax quotes from a minimum of three contractors.
- (3) Less than \$5,000 but greater than \$1,000 require three verbal quotes.
- (4) Less than \$1,000 are left to the discretion of the purchaser.

C. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered.**D. All information gathered in complying with the procedures of this guideline shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.****§ 46-5. Awarding of contracts.**

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 be documented and filed with the record supporting the procurement.

§ 46-6. Obtaining required number of proposals.

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 as outlined in § 46-4, 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.

§ 46-7. Exceptions.

Except when directed by the Town Board, no solicitation of written proposals or quotations shall be required under the following circumstances:

- A. Acquisition of professional services.
- B. Emergencies.
- C. Sole source situations.
- D. Goods purchased from agencies for the blind or severely handicapped.
- E. Goods purchased from correctional facilities.
- F. Goods purchased from another governmental agency.
- G. Goods purchased under a state or county contract.
- H. Goods purchased for less than \$500.
- I. Public works contracts less than \$1,000.
- J. Purchase of insurance.
- K. Purchase of utilities.

§ 46-8. Emergency purchase.

All officers, agents and department heads for the town must first obtain the approval of the Town Board for any purchase in excess greater than \$1,500. In the case of an emergency, the Chief Fiscal Officer may approve such purchase, provided that the approval of such a purchase could not wait until the next regular Town Board meeting. If purchase is made under this emergency condition, the purchaser and the Chief Fiscal Officer will inform the Town Board of such a purchase at its next regular meeting. In any event, the purchase will still be required to follow the guidelines set forth above.

§ 46-9. Annual review.

This policy shall be reviewed annually by the Town Board at its organizational meeting or as soon thereafter as is reasonably practicable.



Chapter 51
RECORDS

ARTICLE I
Retention and Disposition

- § 51-1. Adoption of schedule by reference.
- § 51-2. Disposition guidelines.

ARTICLE II
Public Access

- § 51-3. Purpose.

- § 51-4. Records inaccessible to the public.
- § 51-5. Designation of records access officers; responsibilities.
- § 51-6. Location of records.
- § 51-7. Hours for public inspection.
- § 51-8. Procedure for requests.
- § 51-9. Subject matter list.
- § 51-10. Denial of access; appeals.
- § 51-11. Fees.
- § 51-12. Public notice.

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

ARTICLE I
Retention and Disposition
[Adopted 3-27-1989]

§ 51-1. Adoption of schedule by reference.

Records Retention and Disposition Schedule MU-1, issued pursuant to Article 57-A of the Arts and Cultural Affairs Law and containing legal minimum retention periods for municipal government records, is hereby adopted for use by all municipal officers in disposing of municipal government records listed therein.

§ 51-2. Disposition guidelines.

In accordance with said Article 57-A:

- 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.
- B. 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.

ARTICLE II

Public Access

[Adopted at time of adoption of Code (see Ch. 1,
General Provisions, Art. I)]

§ 51-3. Purpose.

- A. The people's right to know the process of governmental decisionmaking and to review 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.

§ 51-4. Records inaccessible to the public.

- A. The following records, pursuant to town and state law, are not accessible to the public:
 - (1) Those which are specifically exempted from disclosure by state or federal statute.
 - (2) Those which, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of Subdivision 2 of § 89 of the Public Officers Law.
 - (3) Those which, if disclosed, would impair present or imminent contract awards or collective bargaining negotiations.
 - (4) Those which are trade secrets or are maintained for the regulation of commercial enterprise which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise.
 - (5) Those which are compiled for law enforcement purposes and which, if disclosed, would:
 - (a) Interfere with law enforcement investigations or judicial proceedings;
 - (b) Deprive a person of a right to a fair trial or impartial adjudication;
 - (c) Identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - (d) Reveal criminal investigative techniques or procedures, except routine techniques and procedures.
 - (6) Those which, if disclosed, would endanger the life or safety of any person.
 - (7) Those which are interagency or intraagency materials which are not:
 - (a) Statistical or factual tabulations or data;
 - (b) Instructions to staff that affect the public;

- (c) Final agency policy or determinations; or
 - (d) External audits, including but not limited to audits performed by the Comptroller and the federal government.
 - (8) Those which are examination questions or answers which are requested prior to the final administration of such questions.
 - (9) Those which are computer access codes.
- B. Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

§ 51-5. Designation of records access officers; responsibilities.

- A. The Town Board of the Town of Grafton is responsible for ensuring compliance with the regulations herein and designates the following persons as records access officers:
- (1) Town Clerk.
 - (2) Deputy Town Clerk.
- B. Records access officers are responsible for ensuring appropriate agency response to public requests for access to records. The designation of records access officers 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. 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, make a copy available upon payment or offer to pay established fees, if any, in accordance with § 51-11.
 - (5) Upon request, certify that a record is a true copy.
 - (6) Upon failure to locate records, certify that:
 - (a) The Town of Grafton is not the custodian for such records; or
 - (b) The records of which the Town of Grafton is custodian cannot be found after diligent search.

§ 51-6. Location of records.

Records shall be available for public inspection and copying at the office of the Town Clerk, Town Hall, 2379 Route 2, Grafton, New York 12082.

§ 51-7. Hours for public inspection.

Requests for public access to records shall be accepted and records produced during all hours the Town Clerk's office is regularly open for business.

§ 51-8. Procedure for requests.

- A. A written request is required.
- B. A response shall be given regarding any request reasonably describing the record or records sought within five business days of receipt of the request.
- C. A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.
- D. If the records access officer does not provide or deny access to the record sought within five business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, such failure may be construed as a denial of access that may be appealed.

§ 51-9. Subject matter list.

- A. The records access officer shall maintain a reasonably detailed current list by subject matter of all records in its 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.

§ 51-10. Denial of access; appeals.

- 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 § 51-8D of these regulations, such failure shall also be deemed a denial of access.

- C. The following person or persons or body shall hear appeals from denial of access to records under the Freedom of Information Law: the Town Board of the Town of Grafton.
- D. The time for deciding an appeal by the individual or body designated to hear appeals shall commence upon receipt of written appeal identifying:
 - (1) The date of the appeal.
 - (2) The date and location of the request 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 § 51-8D.
 - (5) The name and return address of the requester.
- E. The individual or body designated to hear appeals shall inform the requester of 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 Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government, Department of State, 162 Washington Avenue, Albany, New York 12231.
- G. The person or body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination in writing within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in Subsection F of this section.

§ 51-11. Fees.

- A. There shall be no fee charged for:
 - (1) Inspection of records.
 - (2) Search for records.
 - (3) Any certification pursuant to this chapter.
- B. Copies of records shall be provided according to the following fee schedule:
 - (1) The fee for photocopies not exceeding nine inches by 14 inches is \$0.25 per page.
 - (2) The fee for copies of records other than photocopies which are nine inches by 14 inches or less shall be the actual copying cost, excluding fixed agency costs such as salaries.

§ 51-12. Public notice.

A notice containing the title or name and business address of the records access officers 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 and/or published in a local newspaper of general circulation.

Chapter 59
TERMS OF OFFICE

ARTICLE I
Tax Collector

- § 59-1. Term established.
- § 59-2. Supersession of Town Law.
- § 59-3. Approval by electors.

ARTICLE II
Town Clerk

- § 59-4. Term established.
- § 59-5. Supersession of Town Law.
- § 59-6. Approval by electors.

ARTICLE III
Superintendent of Highways

- § 59-7. Term established.
- § 59-8. Supersession of Town Law.
- § 59-9. Approval by electors.

ARTICLE IV
Town Supervisor

- § 59-10. Term established.
- § 59-11. Supersession of Town Law.
- § 59-12. Approval by electors.

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

ARTICLE I
Tax Collector

[Adopted 8-27-1998 by L.L. No. 6-1998]

§ 59-1. Term established.

- A. The term of office of elective Tax Collector of the Town of Grafton shall be four years. Such four-year term shall commence on the first day of January following the first biennial town election after the effective date of this article.
- B. At the biennial town election next following the effective date of this article, and every four years thereafter, the Tax Collector of the Town of Grafton shall be elected for a term of four years.

§ 59-2. Supersession of Town Law.

This article shall supersede in its application to the Town of Grafton § 24 of the Town Law with respect to the term of office of the Tax Collector of the Town of Grafton.

§ 59-3. Approval by electors.¹

This article shall be submitted for approval to the electors of the Town of Grafton at the next general town election to be held on November 3, 1998, in Grafton.

ARTICLE II
Town Clerk
[Adopted 8-27-1998 by L.L. No. 7-1998]

§ 59-4. Term established.

- A. The term of office of elective Town Clerk of the Town of Grafton shall be four years. Such four-year term shall commence on the first day of January following the first biennial town election after the effective date of this article.
- B. At the biennial town election next following the effective date of this article, and every four years thereafter, the Town Clerk of the Town of Grafton shall be elected for a term of four years.

§ 59-5. Supersession of Town Law.

This article shall supersede in its application to the Town of Grafton § 24 of the Town Law with respect to the term of office of the Town Clerk of the Town of Grafton.

§ 59-6. Approval by electors.²

This article shall be submitted for approval to the electors of the Town of Grafton at the next general town election to be held on November 3, 1998, in Grafton.

ARTICLE III
Superintendent of Highways
[Adopted 8-27-1998 by L.L. No. 8-1998]

§ 59-7. Term established.

- A. The term of office of elective Town Superintendent of Highways of the Town of Grafton shall be four years. Such four-year term shall commence on the first day of January following the first biennial town election after the effective date of this article.
- B. At the biennial town election next following the effective date of this article, and every four years thereafter, the Town Superintendent of Highways of the Town of Grafton shall be elected for a term of four years.

¹ Editor's Note: This article was approved 11-3-1998.

² Editor's Note: This article was approved 11-3-1998.

§ 59-8. Supersession of Town Law.

This article shall supersede in its application to the Town of Grafton § 24 of the Town Law with respect to the term of office of the Town Superintendent of Highways of the Town of Grafton.

§ 59-9. Approval by electors.³

This article shall be submitted for approval to the electors of the Town of Grafton at the next general town election to be held on November 3, 1998, in Grafton.

ARTICLE IV

Town Supervisor

[Adopted 8-27-1998 by L.L. No. 9-1998]

§ 59-10. Term established.

- A. The term of office of elective Town Supervisor of the Town of Grafton shall be four years. Such four-year term shall commence on the first day of January following the first biennial town election after the effective date of this article.
- B. At the biennial town election next following the effective date of this article, and every four years thereafter, the Town Supervisor of the Town of Grafton shall be elected for a term of four years.

§ 59-11. Supersession of Town Law.

This article shall supersede in its application to the Town of Grafton § 24 of the Town Law with respect to the term of office of the Town Supervisor of the Town of Grafton.

§ 59-12. Approval by electors.⁴

This article shall be submitted for approval to the electors of the Town of Grafton at the next general town election to be held on November 3, 1998, in Grafton.

³ Editor's Note: This article was approved 11-3-1998.

⁴ Editor's Note: This article was approved 11-3-1998.



PART II

**GENERAL
LEGISLATION**



Chapter 70

ADULT ENTERTAINMENT

- | | |
|---|---|
| <p>§ 70-1. Purposes and considerations.</p> <p>§ 70-2. Definitions.</p> <p>§ 70-3. Location restriction.</p> <p>§ 70-4. Waiver of restrictions.</p> | <p>§ 70-5. Limitation of number of adult uses.</p> <p>§ 70-6. Penalties for offenses.</p> |
|---|---|

[HISTORY: Adopted by the Town Board of the Town of Grafton at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

§ 70-1. Purposes and considerations.

- A. In the execution of this chapter it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.
- B. It is further declared that the location of these uses, in regard to areas where our youth may regularly assemble, and the general atmosphere encompassing their operation, is of great concern to the Town of Grafton.
- C. These special regulations are itemized in this chapter to accomplish the primary purposes of preventing a concentration of these uses in any one area and restricting their accessibility to minors.

§ 70-2. Definitions.

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

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and video tapes, and such establishment is customarily not open to the public generally, but excludes any minor by reason of age.

ADULT DRIVE-IN THEATER — A drive-in theater that customarily presents motion pictures that are not open to the public generally, but excludes any minor by reason of age.

ADULT ENTERTAINMENT CABARET — A public or private establishment which presents topless dancers, strippers, male or female impersonators or exotic dancers, or similar entertainment. Is customarily not open to the public generally, but excludes any minors reason by age.

ADULT MOTEL — A motel which is not open to the public generally, but excludes minors by reason of age, or which makes available to its patrons in their rooms films, slide shows or videotapes, which, if presented in a public movie theater, would not be open to the public generally, but would exclude any minor by reason of age.

ADULT THEATER — A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally, but excludes any minor by reason of age.

MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths or steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist, duly licensed occupational therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages. **[Amended 12-9-1999 by L.L. No. 1-1999]**

PEEP SHOWS — A theater which presents material in live shows, films or videotapes, viewed from an individual enclosure, for which a fee is charged and which is not open to the public generally, but excludes any minor by reason of age.

§ 70-3. Location restriction.

The adult uses as defined in § 70-2 above are to be restricted as to location in the following manner, in addition to any other requirements of this Code.

- A. Any of the above uses shall not be located within a one-thousand-foot radius of another such use.
- B. Any of the above uses shall not be located within a one-thousand-foot radius of any school, church or other place of religious worship, park, cemetery, playground or playing field.

§ 70-4. Waiver of restrictions.

The restrictions enumerated in § 70-3 above may be waived by the Town Board if the applicant shows and the Board finds that the following conditions have been met in addition to the general conditions contained in this chapter:

- A. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this chapter will be observed;
- B. That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or nonresidential; and

- C. That 51% or more of the property owners within the restricted area as defined in § 70-3 of this chapter have signed a petition stating that they have no objection to the establishment of one of the uses defined above.

§ 70-5. Limitation of number of adult uses.

No more than one of the adult uses as defined above shall be located on any lot.

§ 70-6. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not to exceed 15 days, or both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate, distinct offense hereunder.

Chapter 77
ALCOHOLIC BEVERAGES

§ 77-1. Title.

§ 77-2. Purpose.

§ 77-3. Short title.

§ 77-4. Definitions.

§ 77-5. Regulation.

§ 77-6. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Grafton 6-14-1976 by L.L. No. 1-1976; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

§ 77-1. Title.

This chapter shall be known and be cited as a "Local Law Regulating the Possession of Open Containers of Alcoholic Beverages in Public Places."

§ 77-2. Purpose.

The purpose of this chapter is to protect the public health, welfare and safety by regulating the possession with intent to consume of open containers of alcoholic beverages in public places.

§ 77-3. Short title.

This chapter shall hereafter be known and cited as the "Town of Grafton Open Container Law."

§ 77-4. Definitions.

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.

§ 77-5. Regulation.

No person shall have in his possession any open bottle or container containing liquor, beer, wine or other alcoholic beverage, with intent to consume the same, while such person is on any public highway, public street, public sidewalk, public parking area or public place, excepting those premises duly licensed for sale and consumption of alcoholic beverages on the premises.

§ 77-6. Penalties for offenses.

A violation of this chapter shall constitute an offense punishable by a fine of not more than \$250 or by imprisonment in the Rensselaer County Jail for up to 15 days, or by both such fine and imprisonment.

Chapter 81 ANIMALS

ARTICLE I Dog Control

§ 81-1. Purpose.

§ 81-2. Definitions.

§ 81-3. Restrictions.

§ 81-4. Enforcement.

§ 81-5. Warning; appearance ticket.

§ 81-6. Complaint.

§ 81-7. Restraint or confinement of dogs
after warning.

§ 81-8. Penalties for offenses.

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

ARTICLE I Dog Control

[Adopted 5-10-1993 by L.L. No. 1-1993]

§ 81-1. Purpose.

The Town of Grafton finds that uncontrolled behavior of dogs has caused physical harm to persons, livestock and pets and has created nuisances within the town. The purposes of this article are to protect the health, safety and well-being of persons and property in the town by imposing restrictions, regulations and responsibilities upon dog owners whose dogs are unlicensed, unvaccinated, at large or creating a nuisance in the town; and to authorize the town to enforce compliance with these restrictions against dog owners who fail to meet their responsibilities.

§ 81-2. Definitions.

The following terms shall have the meanings indicated:

AT LARGE — Any dog that is unleashed on property open to the public or is not confined or suitably restrained on private premises not the property of the owner. No dog shall be deemed to be at large if it is accompanied by and under the immediate supervision and control of the owner or other responsible person.

HARBOR or KEEP — To provide food or shelter to any dog.

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

§ 81-3. Restrictions.

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

- A. To be unlicensed and/or not vaccinated against rabies.
- B. To be at large.
- C. While on public or private premises, not the property of the owner of such dog, to chase, jump at or otherwise harass any person in such a manner as to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
- D. To damage or destroy private property or to commit a nuisance upon the premises of any person not the owner of such dog. The dog owner shall be held financially responsible for any damages so caused.
- E. To attack or cause injury to any household pet or farm animal when said animal is not at large.
- F. To engage in persistent loud howling or continuous barking so as to create an unreasonable public disturbance.

§ 81-4. Enforcement.¹

This article shall be enforced solely by the Dog Control Officer of the Town of Grafton or by his designated deputy. Either person shall have the power to seize and restrain any dog which he has reasonable cause to believe is violating the restrictions of this article in accordance with Agriculture and Markets Law § 118. Notification of dog owners shall be as provided in said section.

§ 81-5. Warning; appearance ticket.

The Dog Control Officer or his designated deputy, having reasonable cause to believe a person has violated this article, shall on the first instance of such violation issue a warning to such person and upon any subsequent violation shall issue and serve upon such person an appearance ticket in Town Court for such violation.

§ 81-6. Complaint.

Any person who observes a dog in violation of this article may file a complaint under oath with a Justice of the Town of Grafton specifying the nature of the violation, the date thereof, a description of the dog and the name and address of the owner of such dog, if known. Such complaint may serve as the basis for enforcing the provisions of this article.

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

§ 81-7. Restraint or confinement of dogs after warning.

Any person warned according to § 81-5 of this article shall immediately cease and desist from permitting or allowing the offending conduct alleged and shall take all steps reasonably necessary to comply with this article.

§ 81-8. Penalties for offenses.

Any person convicted of a violation of this article shall be liable for a civil penalty not exceeding \$50 for the first violation and not exceeding \$100 for each subsequent violation, in addition to any damages proven pursuant to § 81-3D.



Chapter 90
RIGHT TO FARM LAW

- | | |
|---|---------------------------------|
| § 90-1. Legislative Intent and Purpose. | § 90-5. Resolution of Disputes. |
| § 90-2. Definitions. | § 90-6. Severability Clause. |
| § 90-3. Right-to-Farm Declaration. | § 90-7. Procedure. |
| § 90-4. Notification to Real Estate Buyers. | § 90-8. Effective Date. |

[HISTORY: Adopted by the Town Board of the Town of Grafton November 9, 2006 by L.L. No. 3-2006.]

§ 90-1. Legislative Intent and Purpose.

The Town Board recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Grafton. The Town Board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day to day operations involved in farming so as to encourage cooperation with those practices.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusinesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Grafton, it is necessary to limit the circumstances under which farming may be deemed to be nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

§ 90-2. Definitions.

1. "Farmland" shall mean land used in agricultural production, as defined in subdivision four of section 301 of Article 25AA of the State Agriculture and Markets Law.
2. "Farmer" shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise. including the cultivation of land, the raising of crops, or the raising of livestock.
3. "Agricultural products" shall mean those products as defined in section 301 (2) of

Article 25AA of the State Agriculture and Markets Law, including but not limited to:

- a. Field crops, including, but not limited to, corn, wheat, rye, barley, hay, potatoes and dry beans.
 - b. Fruits, including but not limited to, apples, peaches, grapes, cherries and berries.
 - c. Vegetables, including but not limited to, tomatoes, snap beans, cabbage, carrots, beets and onions.
 - d. Horticultural specialties, including but not limited to, nursery stock, ornamental shrubs, ornamental trees and flowers.
 - e. Livestock and livestock products, including but not limited to, cattle, sheep, hogs, goats, horses, poultry, alpacas, llamas, ostriches, emus, fanned deer, fanned buffalo, fur bearing animals, milk and milk products, eggs, furs, and poultry products.
 - f. Maple sap and sugar products.
 - g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the Stump.
 - h. Aquaculture products, including fish, fish products, water plants and shellfish.
 - i. Short rotation woody crops raised for bioenergy.
 - j. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.
4. "Agricultural practices" shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop production methods, and construction and use of farm structures.
 5. "Farm operation" shall be defined in section 301 (11) in the State Agriculture and Markets Law.

§ 90-3. Right-to-Farm Declaration.

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies.

Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

1. Reasonable and necessary to the particular farm or farm operation,
2. Conducted in a manner which is not negligent or reckless.
3. Conducted in conformity with generally accepted and sound agricultural practices,
4. Conducted in conformity with all local state, and federal laws and regulations.
5. Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
6. Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

§90-4. Notification of Real Estate Buyers.

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Section 310 of Article 25AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies wholly within the town and that farming activities occur within the town. Such farming activities may include, but

not be limited to, activities that cause noise, dust and odors." This notice shall be provided to prospective purchase of property within the town or on property with boundaries within 500 feet of a farm operation located in the Town.

A copy of this notice shall be included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

§ 90-5. Resolution of Disputes.

1. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commission or Agriculture and Markets about whether the practice in question is sound pursuant to Section 308 of Article 25AA of the State Agriculture and Markets Law.
2. Any controversy between the parties shall be submitted to the committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence,
3. The committee shall be composed of three (3) members from the Town selected by the Town Board, as the need arises, including one representative from the farm community, one person from Town government and one person mutually agreed upon by both parties involved in the dispute.
4. The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.
5. The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Therefore, after the committee may investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting at a mutually agreed place and *time* to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each consider to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the

committee may be extended upon the written stipulation of all parties in the dispute.

6. Any reasonable costs associated with the function of the committee process shall be borne by the participants.

§ 90-6. Severability Clause.

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not effect the remainder of this Local Law. The Town hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that anyone or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

§ 90-7. Precedence.

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

§ 90-8. Effective Date.

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

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Y. F. Sawyer

Chapter 100

BUILDINGS, UNSAFE

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|------------------------------------|-----------------------------------|
| § 100-1. Purpose. | § 100-7. Service of notice. |
| § 100-2. Title. | § 100-8. Filing of notice. |
| § 100-3. Definitions. | § 100-9. Refusal to comply. |
| § 100-4. Investigation and report. | § 100-10. Assessment of expenses. |
| § 100-5. Town Board order. | § 100-11. Special proceeding. |
| § 100-6. Notices; contents. | § 100-12. Emergencies. |

[HISTORY: Adopted by the Town Board of the Town of Grafton 8-4-1981 by L.L. No. 1-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 125.

§ 100-1. Purpose.

Unsafe buildings pose a threat to life and property in the Town of Grafton. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as a point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation thereby creating a health menace to the community. It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Town of Grafton by requiring such unsafe buildings to be repaired or demolished and removed.

§ 100-2. Title.

This chapter shall be known as the "Unsafe Buildings and Structures Law of the Town of Grafton."

§ 100-3. Definitions.

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

BUILDING — Any building, structure or portion thereof used for residential, farming, recreational, business or industrial purpose.

BUILDING INSPECTOR — The Building Inspector of the Town of Grafton or such other person appointed by the Town Board to enforce the provisions of this chapter.

§ 100-4. Investigation and report.

When in his own opinion or upon receipt of information that a building is or may become dangerous or unsafe to the general public; is open at the doorways and windows making it accessible to and an object of attraction to minors under 18 years of age, as well as to vagrants and other trespassers; is or may become a place of rodent infestation; presents any other danger to the health, safety, morals and general welfare of the public; or is unfit for the purposes for which it may lawfully be used, the Building Inspector shall cause or make an inspection thereof and report, in writing, to the Town Board his findings and recommendations in regard to its repair or demolition and removal.

§ 100-5. Town Board order.

The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair, if the same can be safely repaired, or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein.

§ 100-6. Notices; contents.

The notice shall contain the following:

- 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 the securing 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.
- 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 the building, the Town Board is authorized to provide for its securing or 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 securing or demolition, including legal expenses.

§ 100-7. Service of notice.

The notice shall be served:

- A. By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in such unsafe building as shown by the records of the receiver of taxes or Tax Collector or of the County Clerk, or, if

no such person can be reasonably found, by mailing such owner, by certified mail, a copy of such notice directed to his last known address as shown by the above records.

- B. By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found.
- C. By securely affixing a copy of such notice upon the unsafe building.

§ 100-8. 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 Rensselaer.

§ 100-9. Refusal to comply.

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 securing and repair or demolition and removal of such building or structure either by town employees or by contract. Except in an emergency as provided in § 100-12 hereof, any contract for demolition and removal of a building in excess of \$5,000 shall be awarded through competitive bidding.

§ 100-10. Assessment of expenses.

All expenses incurred by the town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.

§ 100-11. Special proceeding.

Pursuant to § 78-b of the General Municipal Law, the Town Board may commence a special proceeding in a court of competent jurisdiction to collect the costs of repairing and securing or demolishing and removing, including reasonable and necessary legal expenses, from the owner of any building that has been secured or removed by order of the Town Board. The provisions of Article 4 of the Civil Practice Law and Rules shall govern any special proceeding commenced under this section.

§ 100-12. Emergencies.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property unless an unsafe building is immediately repaired and secured or demolished, the Town Board may, by resolution, authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in § 100-10 hereof.



Chapter 115

FAIR HOUSING

§ 115-1. Program goals.

§ 115-4. Program hours.

§ 115-2. Program objectives.

§ 115-5. Program schedule.

§ 115-3. Activities.

[HISTORY: Adopted by the Town Board of the Town of Grafton 7-24-1989. Amendments noted where applicable.]

§ 115-1. Program goals.

The goals of the Town of Grafton Fair Housing and Equal Opportunity Plan are:

- A. To assist minorities, elderly and low- to moderate-income individuals and families obtain suitable and affordable housing accommodations of their choice.
- B. To reduce discrimination in the rental, sales and financing of housing accommodations in the Town of Grafton.

§ 115-2. Program objectives.

The objectives of the Fair Housing and Equal Opportunity Plan are to assist individuals and families in finding suitable, affordable and safe housing and to reduce discrimination in housing.

§ 115-3. Activities.

- A. Fair housing services.
 - (1) The Town of Grafton understands that the State of New York has prepared and adopted fair housing laws intended to expand housing choice for residents of New York State and reduce incidences of discrimination in housing.
 - (2) In an effort to simplify the town's fair housing efforts and eliminate duplicate services, the town has adopted a Fair Housing and Equal Opportunity Plan that incorporates New York State's Fair Housing Law.
- B. Fair Housing Officer. The Town of Grafton will appoint a Fair Housing Officer to carry out the services provided by this Fair Housing Plan. Specifically, when contacted by a person(s) who believes they have been discriminated against in relation to housing, the Fair Housing Officer will contact the appropriate New York State Agency for appropriate action. The Fair Housing Officer will follow up with this individual to ensure that the situation has been corrected.
- C. Litigation.

- (1) The Town of Grafton will forward to the appropriate office of the New York State Human Rights Commission and the United States Department of Housing and Urban Development Office cases of discriminatory selling or renting practices, including assisting parties in completing and filing either HUD Form 903 or 903A, Housing Discrimination Complaint.
- (2) The objectives of this plan are designed to aid and provide service to persons and families who lack the ability to fully articulate their needs and adequately accomplish their goals of adequate housing of their choice and also to recognize discrimination.

§ 115-4. Program hours.

The program will operate out of the Grafton Town Hall. The Fair Housing Officer will be available to provide assistance to persons with housing problems and questions during normal business hours.

§ 115-5. Program schedule.

The Town of Grafton will carry out this plan indefinitely but at a minimum, for the duration of any and all current CDBG Programs that the town may be administering.

Chapter 125

FIRE PREVENTION AND BUILDING CONSTRUCTION

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| § 125-1. Title. | § 125-7. Examination of permit applications. |
| § 125-2. Purpose. | § 125-8. Revocation of building permits. |
| § 125-3. Prevalence of more restrictive standards. | § 125-9. Right of entry. |
| § 125-4. Designation of enforcement officials. | § 125-10. Inspections; records. |
| § 125-5. Powers and duties of enforcement officials. | § 125-11. Certificates of occupancy. |
| § 125-6. Records and reports. | § 125-12. Penalties for offenses. |
| | § 125-13. Additional remedies. |

[HISTORY: Adopted by the Town Board of the Town of Grafton at the time of adoption of Code (see Ch. 2, General Provisions, Art. 1) . Amendments noted where applicable].
(Amended Section 125-11 A. by L.L. No. 2 of 2008)

GENERAL REFERENCES Unsafe Buildings – See Ch. 100

§ 125-1. Title.

This chapter shall be known as the "Uniform Fire Prevention and Building Code Administration and Enforcement Law."

§ 125-2. Purpose.

It is the purpose of this chapter to provide for the administration and enforcement of the Uniform Fire Prevention and Building Code established by Article 18 of the Executive Law as added by Chapter 707 of the Laws of 1981 of the State of New York, as the same may be applicable to the Town of Grafton, New York.

§ 125-3. Prevalence of more restrictive standards.

Where the provisions of this chapter conflict with or impose a different requirement than any other provisions of the Town of Grafton Code or any rule or regulation adopted thereunder, the provision which establishes the higher standard or requirement shall govern.

§ 125-4. Designation of enforcement officials.

It shall be the duty of the Building Inspector to administer and enforce the Uniform Code and the provisions of this chapter.

§ 125-5. Powers and duties of enforcement officials.

- A. The Building Inspector shall administer and enforce all of the provisions of the Uniform Code and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof.
- B. The Town Clerk shall receive applications and once the application is approved by the Building Inspector, issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof. Prior to the issuance of such permit, the Building Inspector shall examine the premises for which such applications have been received for the purpose of ensuring compliance with the Uniform Code and other laws, ordinances and regulations governing building construction.
- C. The Building Inspector shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of the Uniform Code and other applicable laws, ordinances and regulations. They or either of them shall make all inspections which are necessary or proper for the carrying out of their duties.
- D. Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable laws, ordinances or regulations covering building construction, the Building Inspector may require the performance of tests in the field by experienced professional persons or by a credited and authoritative testing laboratory or service bureau or agency.
- E. Inspections. In the furtherance of the duties of the Building Inspector, as provided for in this chapter, said Building Inspector shall institute and perform the following inspections, in addition to those otherwise required in this chapter:
- (1) Construction inspections where a building permit has been issued, at such times during the course of construction as will permit the observation of the foundation, structural elements, electrical systems, plumbing systems, heating, ventilation and air-conditioning systems, fire-protection and detection systems and exit features.
 - (2) Inspections where a certificate of occupancy or a certificate of compliance is required, prior to its issuance.
 - (3) Firesafety inspections of areas of public assembly defined in Part 606 of Title 9 of the official compilation of the New York Codes, Rules and Regulations at least once a year.
 - (4) Firesafety inspections of all multiple dwellings and all nonresidential occupancies at intervals consistent with local conditions (See Title 19 of the New York Codes, Rules and Regulations, Administration and Enforcement of the Uniform Fire Prevention and Building Code, Part 444):
 - (a) Areas of public assembly, at least once every 12 months.
 - (b) Gas stations, at least once every six months.
 - (c) Petroleum bulk storage, at least once every six months.

- (d) All buildings open to the public, at least once every 36 months.
- (e) All common areas to multiple dwellings (not one- or two-family dwellings), at least every 24 months.
- (f) Any building, use or occupancy, at owner request, during an emergency or for a bona fide complaint.

§ 125-6. Records and reports.

- A. The Building Inspector shall keep permanent official records of all transactions and activities conducted by them, including all applications received, inspection reports and notices of orders issued.
- B. The Building Inspector shall, as directed, submit to the Town Board a written report and summary of all business conducted by them, including orders and notices promulgated, inspections and tests made and appeals or litigation pending.

§ 125-7. Examination of permit applications.

The Building Inspector shall examine, or cause to be examined, all applications for building permits and the plans, specifications and documents filed therewith. He shall approve or disapprove the application within a reasonable time and in any event within 20 business days.

§ 125-8. Revocation of building permits.

The Building Inspector may revoke a building permit theretofore issued and approved in the following instances.

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

§ 125-9. Right of entry.

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

§ 125-10. Inspections; records.

- A. Before a certificate of occupancy is issued in the Town of Grafton, the Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy, and he may conduct such inspections as he deems appropriate, from time to time, during and upon completion of the work for which a building permit has been issued.
- B. There shall be maintained by the Building Inspector a record of all such examinations and inspections, together with a record of findings of violations of the Uniform Code and other applicable laws.

§ 125-11 Certificates of Occupancy. (1)

A. Issuance. When, after final inspection, it is found that the proposed work has been completed in accordance with the Uniform Code and other applicable building laws, ordinances and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Building Inspector shall approve the issuance of a certificate of occupancy, which certificate will be issued by the Building Inspector. If it is found that the proposed work has not been properly completed, the Building Inspector shall refuse to approve the issuance of a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the Uniform Code and other application building regulations. (1)

- B. Tests for compliance with standards. Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the Uniform Code or the applicable building laws, ordinances or regulations, the Building Inspector may require the same to be subjected to tests in order to furnish proof of such compliance.

§ 125-12. Penalties for offenses.

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use or occupy or maintain any building or structure or portion thereof in violation of any of the provisions of this chapter or to fail in any manner to comply with the notice, directive or order of the Building Inspector or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.
- B. For each offense against any of the provisions of the Uniform Code or of this chapter or any regulations made pursuant thereto or failure to comply with a written notice or order of any Building Inspector within the time fixed for compliance therewith, the owner, occupant, builder, architect, contractor or their agents or any other person who commits, takes part or assists in the commission of any such offense or who shall fail to comply with a written order or notice of any Building Inspector shall be subject to the terms and provisions of § 382 of the Executive Law.

(1) Editors Note: This article was approved by L.L. 2 of 2008 on November 13, 2008

§ 125-13. Additional remedies.

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises and those remedies shall be in addition to the penalties prescribed in § 382 of the Executive Law.

11

Chapter 132
FRESHWATER WETLANDS

§ 132-1. Exercise of regulatory authority. § 132-2. When effective.

[HISTORY: Adopted by the Town Board of the Town of Grafton 8-30-1976 by L.L. No. 2-1976. Amendments noted where applicable.]

§ 132-1. Exercise of regulatory authority.

Pursuant to § 24-0501 of the New York State Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law), the Town of Grafton shall fully undertake and exercise its regulatory authority with regard to activities subject to regulation under the Act in freshwater wetlands, as shown on the Freshwater Wetlands Map, as such map may from time to time be amended, filed by the Department of Environmental Conservation pursuant to the Act, and in all areas adjacent to any such freshwater wetland up to 100 feet from the boundary of such wetland. Such regulatory authority shall be undertaken and exercised in accordance with all of the procedures, concepts and definitions set forth in Article 24 of the New York Environmental Conservation Law and Title 23 of Article 71 of such law relating to the enforcement of Article 24, as such law may from time to time be amended.

§ 132-2. When effective.

This chapter, adopted on the date set forth above, shall take effect upon the filing with the Clerk of the Town of Grafton of the final Freshwater Wetlands Map by the New York State Department of Environmental Conservation pursuant to § 24-0301 of the Freshwater Wetlands Act applicable to any or all lands within the Town of Grafton.



Chapter 136
GAMES OF CHANCE

§ 136-1. Authority; title.

§ 136-2. Definitions.

**§ 136-3. Games of chance authorized;
restrictions.**

§ 136-4. Effective date.

[HISTORY: Adopted by the Town Board of the Town of Grafton 5-7-1984. Amendments noted where applicable.]

§ 136-1. Authority; title.

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

§ 136-2. Definitions.

The words and terms used in this chapter shall have the same meaning as such words and terms are used in Article 9-A of the General Municipal Law, unless otherwise provided herein or the context requires a different meaning:

OFFICER — The Chief Law Enforcement Officer of the County of Rensselaer.

TOWN — The Town of Grafton.

§ 136-3. Games of chance authorized; restrictions.

- A. Games of chance may be conducted in the town by an authorized organization, after obtaining a license therefore, in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law, the rules and regulations of the New York State Wagering Board and this chapter.
- B. The conduct of games of chance on Sundays is authorized, except as otherwise provided in Article 9-A of the General Municipal Law.
- C. In addition to the restrictions contained in § 189 of the General Municipal Law, the conduct of games of chance in the town shall be subject to the following restrictions:
 - (1) Rules and regulations of the New York State Wagering Board as now existing and as hereinafter amended;
 - (2) All other state and local municipal statues, rules and regulations and ordinances; and
 - (3) Further provisions of this chapter.

§ 136-4. Effective date.¹

This chapter shall not become operative or effective unless and until it shall have been submitted to a general or special election and approved by a vote of the majority of the qualified electors of the Town of Grafton voting on a proposition, which proposition shall state:

Shall Ordinance No. 1-1984 authorizing the conduct of games of chance in the Town of Grafton, duly adopted by the Town Board of the Town of Grafton, Rensselaer County, New York, after a public hearing duly held pursuant to notice on _____, 1984, be approved?

and which proposition shall be submitted at a general election to be held on November 6, 1984, in accordance with the provisions of §§ 477, 478, 479 and 496 of the General Municipal Law (§ 130 of the Town Law, § 9-900 of the Village Law) the Elections Law and other applicable provisions of law.²

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

² Editor's Note: This chapter was approved at the general election held 11-6-1984.

Chapter 150

JUNK AND JUNK DEALERS

§ 150-1. Legislative intent.

§ 150-2. Definitions.

§ 150-3. License required.

§ 150-4. Application for license.

§ 150-5. License fee; display; revocation.

§ 150-6. Regulations of junk business or activity.

§ 150-7. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Grafton 8-20-1962. Amendments noted where applicable.]

GENERAL REFERENCES

Abandoned and unregistered vehicles — See Ch. 223.

§ 150-1. Legislative intent.

By the adoption of this chapter, the Town Board of the Town of Grafton declares its intent in so doing to be to regulate, control and license the activities or businesses known as auto and appliance “graveyards,” junkyards, secondhand parts collection areas, the processing of used metals for resale and the dumping, storage and disposal of waste, secondhand or used materials of whatever composition. Said Town Board hereby declares that such activities or businesses can constitute a hazard to property and persons and a public nuisance. Such materials may be highly inflammable and sometimes explosive. Gasoline tanks on old autos often contain in some quantity combustible gasoline, the motors, engines and other parts of such autos are frequently covered with grease and oil which is also inflammable. The tires, plastic seats, tops and other elements of such autos are also inflammable. Batteries and other elements of such autos can contain acids and other matter potentially harmful to humans. These appliances and autos frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These autos can constitute attractive nuisances to children and certain adults. Abandoned refrigerators have often proved to be nuisances which attract children, trap them and leave them to suffocate to death. The presence of such junkyards even in areas used for businesses or industry is unsightly and tends to detract from value of surrounding land and property maintained and operated.

§ 150-2. Definitions.

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

APPLIANCE — Refrigerators, stoves, ice boxes and other white items and major appliances such as washers and dryers. [Amended 12-9-1999 by L.L. No. 1-1999]

AUTO — Passenger, auto, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, bulldozers, machinery and equipment.

PERSON — An individual, an association, a partnership or a corporation.

§ 150-3. License required.

No person shall engage in or conduct on real property within the Town of Grafton, either for himself or for and on behalf of any other person, directly or indirectly as agent, employee or otherwise any activity or business either for profit or otherwise, at wholesale or retail, which involves the collection, storage, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, resale, storage or disposal or otherwise of appliances, or parts thereof, or of auto bodies, engines or parts thereof, or of any other secondhand or used property of whatever material it is composed of, wood, paper, cloth, cardboard, plastics, metals, stove, cement or otherwise, without first obtaining a license therefor as hereinafter provided.

§ 150-4. Application for license.

- A. Each applicant for a license hereunder shall execute under oath an application therefor to be supplied to him by the Town Clerk, which shall contain the following information:
- (1) That the applicant is over 21 years of age.
 - (2) That he is a citizen of the United States.
 - (3) Whether he has ever been convicted of a felony or misdemeanor and such other facts or evidence as is deemed necessary to establish that he is a person fit and capable of properly conducting the activity or business for which the license is sought.
 - (4) A description of the exact type of business he intends to conduct.
 - (5) The nature of the materials he intends to handle.
 - (6) The number of employees he intends to engage.
 - (7) The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to the use of such land.
- B. At the time of making the application, the applicant shall submit to and file with the Town Clerk:
- (1) A map or plan of the real property upon which he intends to conduct the activity or business.
 - (2) The location of the fence required hereunder indicated thereon.
 - (3) The location of any buildings on such land and the location of any streets or highways abutting or passing through such land.
 - (4) The location of any water, sewer or gas mains or laterals available thereto as well as the general drainage pattern of such land.
- C. In the application the applicant shall agree that if granted the license applied for he will conduct the activity or business pursuant to the regulations hereinafter set forth and that upon his failure to do so such license may be revoked forthwith.

- D. A person presently engaged in or conducting an activity or business such as described herein, on real property within the Town of Grafton, must apply for a license therefor within 30 days of the adoption of this chapter. If the place where he conducts such activity

(Cont'd on page 15003)

or business presently complies with the requirements a person must meet to secure a license in the first instance, he shall be issued a license therefor if he meets the other requirements contained herein. If the place where he conducts such activity or business does not presently comply with the requirements a person must meet to secure a license in the first instance, he may be granted a temporary license for one year, during which year he must arrange the place where he conducts such activity or business so that it does then comply with the requirements a person must meet to secure a license in the first instance. If at the end of such year such person has not so arranged his place of such activity or business he shall forthwith cease and desist engaging in or conducting the same and shall remove from such place any appliances, autos, parts or other materials of the nature described herein.

- E. If the person conducting such activity or business is not the sole owner thereof he shall state such fact at the time he applies for his temporary license, and the Town Clerk at the time of issuing such temporary license shall send the owners or each of them a notice of the issuance of such temporary license to such person together with a copy of this chapter.

§ 150-5. License fee; display; revocation.

- A. The fee for the license shall be a sum as set forth from time to time by resolution of the Town Board, which sum covers not only the cost of issuing the license itself, but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed.¹
- B. Such license shall be placed and at all times displayed in a conspicuous place at the licensee's place of activity or business for which it is issued.
- C. Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance after which a new application for license must be made yearly if the licensee desires to continue such activity or business.
- D. Such license is personal with the licensee. It does not go with the title of the land nor may it be sold, assigned, transferred or disposed of.
- E. Such license may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard. Upon revocation of a license the Town Board may require the removal of appliances, autos, parts and materials left as above provided in the case of an applicant for a temporary license who fails to qualify for a license.
- F. In the event that an applicant for a license as provided herein shall previously been duly issued a valid and effective junk dealer's license by the Supervisor of this town, pursuant to the provisions of Article 6 of the New York State General Business Law, then such applicant shall be entitled to and allowed a credit against the above provided license fee in the amount of \$5, such junk dealer's license fee actually paid by such applicant; otherwise, this chapter shall be fully binding upon and applicable to the holder of any such junk dealer's license.

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

§ 150-6. Regulations of junk business or activity.

- A. The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.
- B. The licensee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.
- C. The licensee must erect and maintain a six-foot wire fence of close mesh or one made of wood or of other material, adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the licensee, and if such area abuts a private residence, cemetery, cemetery entrance, park, park entrance or public street or highway, such fence shall be 25 feet from the boundary line thereof. All the materials dealt in by the licensee shall be kept within such fence at all times.
- D. Inside and adjacent to and contiguous with such fence a strip of land at least 10 feet in width shall be kept free of all dry grass or other growth or other combustible material so as to provide a fire lane or line around the whole area where the activity is being conducted.
- E. The appliances, autos, parts and materials dealt in by the licensee shall be piled or arranged in neat rows so as to permit easy, clear passage through the area.
- F. There shall be maintained at each such place of activity or business for which a license is issued at least one fire extinguisher of approved design and capacity for each 40,000 square feet of area. Each such fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.
- G. When the area is not supervised by the licensee or his employees the fence shall be locked at a secure gate in a secure manner.
- H. Suitable sanitary facilities shall be available connected to approved septic tanks for the use and convenience of the employees of the licensee as well as the general public visiting the area.
- I. The area of the licensee's activity or business shall not be used as a dump area nor as a place for the burning and disposal of junk or trash.
- J. The Town Building Inspector/Code Enforcement Officer, the Town Clerk or the Town Board or any of its representatives shall be granted access to the area of the activity or business of the licensee at all reasonable hours to inspect the same for compliance herewith.²

§ 150-7. Penalties for offenses.

- A. The owner or licensee of any such place of business who commits or permits any acts in violation of the provisions of this chapter shall be deemed to have committed an offense against such chapter and also shall be liable for any such violation or the penalty therefor.

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

Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

- B. For every violation of any provision of this chapter the person violating the same shall be subject to a fine of not more than \$1,000 or imprisonment not exceeding one year, or by both such fine and imprisonment.³
- C. Conviction for any above-mentioned violation shall constitute and affect an immediate forfeiture of the license.
- D. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the town in the amount of \$100 for each such offense. Such penalty shall be collectible by and in the name of the town for each day that such violation shall continue.
- E. In addition to the above-provided penalties and punishment, 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 the violation of such chapter.

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

Chapter 161

MOBILE HOMES AND MOBILE HOME PARKS

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| § 161-1. Title. | § 161-10. Requirements for mobile home parks. |
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| § 161-3. Definitions. | § 161-12. House trailers. |
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| § 161-7. Supplemental licenses for parks and camps. | § 161-16. Revocation of mobile home park or trailer camp license. |
| § 161-8. License renewal for parks and camps. | § 161-17. Penalties for offenses. |
| § 161-9. Application, license and registration fees and costs. | § 161-18. Issuance of license not to waive compliance with other regulations. |
| | § 161-19. Exceptions. |

[HISTORY: Adopted by the Town Board of the Town of Grafton 2-16-1972 by L.L. No. 1-1972. Amendments noted where applicable.]

§ 161-1. Title.

This chapter shall be known and may be cited as a "Law for the Regulation of Mobile Homes and Mobile Home Parks and Travel Trailers and Travel Trailer Camps in the Town of Grafton."

§ 161-2. Purpose.

It is the purpose of this chapter to promote the health, safety, morals and general welfare of the inhabitants of the Town of Grafton by establishing specific requirements and regulations governing the occupancy and maintenance of mobile homes, mobile home parks, travel trailers and trailer camps.

§ 161-3. Definitions.

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

BUILDING INSPECTOR — The person or persons appointed by the Grafton Town Board to enforce the provisions of this chapter.

COUNTY — The County of Rensselaer.

HOUSE TRAILER — Any vehicle, or combination thereof, used, designed for use or capable of being used as living quarters, whether propelled by its own power or otherwise. A camping trailer not used for living purposes in the Town of Grafton is excluded from this definition.¹

MOBILE HOME — Any structure, other than a travel trailer, originally so constructed as to be readily mobile, and used or designed or intended to be used as a dwelling, whether alone or in combination with another structure or structures.

MOBILE HOME LOT — A designated site of specific total land area within a mobile home park for the accommodation of one mobile home and its occupants.

MOBILE HOME PAD — An area prepared for the placement and support of a mobile home.

MOBILE HOME PARK — Any parcel of land whereon two or more mobile homes are parked or located, or which is planned and improved for the placement of two or more mobile homes and which is held open to the public for the parking or placement of mobile homes.

TOWN — The Town of Grafton.

TRAILER CAMP — Any parcel of land whereon two or more travel trailers are parked or located, or which is planned and improved for the placement of two or more travel trailers and which is kept open to the public for the parking or placement of travel trailers.

TRAVEL TRAILER — Any vehicle designed or used or intended to be used for temporary living quarters for travel, recreational or vacation purposes.

§ 161-4. Licenses required for mobile home parks and trailer camps.

No person, partnership, association or corporation being the owner, lessee or occupant of any land within the Town of Grafton shall use or allow the use of such land for a mobile home park or trailer camp unless a license therefor has been obtained as herein provided.

§ 161-5. Application for license for mobile home park or trailer camp.

- A. Each application for a license for a mobile home park or a trailer camp shall be in writing and signed by the applicant. The application shall state:
- (1) That the application is for a mobile home park or a trailer camp license, as the case may be.
 - (2) The names and addresses of the applicant and of the owner or owners of the premises upon which the park or camp is to be located; and

¹ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (a) If any applicant or owner be a partnership, the name and address of each partner thereof; and
 - (b) If any applicant or owner be a corporation or association, the names and addresses of each officer and director thereof, and of each owner of 10% or more of the shares thereof.
 - (3) A complete legal description of the land upon which the park or camp is to be located.
 - (4) The number of mobile home lots or trailer lots to be provided in the park or camp.
- B. Such application shall be filed with the Town Clerk, in triplicate.
- C. Such application shall be accompanied by three complete sets of plans and specifications prepared and certified by a registered architect or licensed professional engineer. Such plans shall show the date thereof and the name of the applicant, be drawn to a scale of 20 feet to one inch, show contours at two-foot intervals, indicate the North point thereof, and shall show and identify:
 - (1) The location of the land proposed to be used as a mobile home park or trailer camp.
 - (2) The boundaries of the park or camp.
 - (3) The major physical features of the land within the park or camp and within 300 feet thereof, including:
 - (a) All watercourses, marshes and areas subject to flooding.
 - (b) All wooded areas.
 - (4) All existing development within the park or camp, and within 300 feet thereof, including:
 - (a) Structures.
 - (b) Streets, roads and highways, with suitable indication of the width thereof.
 - (c) Utilities and service facilities.
 - (5) All proposed development within the park or camp, including:
 - (a) Entrances, exits, streets and walkways, with suitable indication of the widths thereof.
 - (b) Each proposed mobile home lot or trailer lot, driveway, parking area and refuse collection area, with suitable indication of the dimensions thereof.
 - (c) Structures and improvements.
 - (d) Grading and landscaping.
 - (e) Stormwater drainage.
 - (f) Utilities and service facilities.
 - (g) Public improvements proposed by the town in or adjoining the park or camp within 300 feet thereof.

- D. Such plans shall include three sets of appropriate detailed drawings of and specifications for proposed structures, utilities and other improvements, and shall show the method and plan for exterior lighting within the park.
- E. Such application shall also be accompanied by a letter or other acceptable certificate of the Rensselaer County Health Department indicating compliance by the applicant with all pertinent rules and regulations of such Department and of the New York State Department of Health and with the Sanitary Code of the State of New York.
- F. If the applicant is not the owner of the premises upon which the proposed park or camp is to be located, such application shall also be accompanied by an original or certified copy of a lease of the premises to the applicant and a statement signed and acknowledged by the owner or owners of the premises consenting that the premises be used as a mobile home park or trailer camp, as the case may be.
- G. Such application shall be accompanied by the proper application fee as hereinafter provided.

§ 161-6. Licensing procedure for mobile home park and trailer camp.

- A. Upon receipt of a license application as hereinabove provided, the Town Clerk shall indicate the date of receipt thereon and promptly transmit one copy of the application and all accompanying plans and specifications and other supporting documents to the Building Inspector, and one copy thereof to the Town Planning Board for review and report pursuant to § 271 of the Town Law of the State of New York. The Town Clerk shall also place a notice in the official town newspaper or newspapers to the effect that such an application has been filed.²
- B. The Building Inspector shall promptly ascertain whether the park or camp concerned complies with the requirements of this chapter and applicable rules and regulations of the New York State and Rensselaer County Departments of Health, and the Sanitary Code of the State of New York. The Building Inspector shall, after such investigation, and within 30 days days of the date of receipt of the application by the Town Clerk, transmit his written findings to the Town Board together with his written approval or disapproval of the application and his recommendations pertaining thereto.
- C. The Planning Board shall promptly consider the location and the general arrangement of the mobile home park or trailer camp, including the location and width of streets; the location, size and arrangement of lots; the location of entrances and exits; and the location, type and extent of landscaping and screening materials. The Planning Board shall, after such investigation, and within 30 days of the date of receipt of the application by the Town Clerk, transmit to the Town Board its written findings and recommendations.
- D. The Town Board shall, within 60 days of the date of receipt of the application by the Town Clerk, review the findings of the Building Inspector and the Planning Board, and by resolution indicate its approval or disapproval of the application. The Town Clerk shall notify the applicant of the Town Board's decision, in writing, within five days thereof.

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

- E. If the application is approved by the Town Board, the Town Clerk shall, upon receipt of the applicable license fee herein provided, issue a license to be effective from the date thereof through the 31st day of December next succeeding. Such license shall specify the number of mobile home lots or trailer lots which may be used in the park or camp to which it pertains.
- F. No such license shall be transferable or assignable.

§ 161-7. Supplemental licenses for parks and camps.

- A. Any person holding a license for a mobile home park or trailer camp and desiring to add additional lots to such park or camp shall file an application for a supplemental license.
- B. The application for such supplemental license shall be made and shall be considered in the same manner as an application for a license for a mobile home park or trailer camp as provided in §§ 161-5 and 161-6 hereof. All supplemental licenses shall be effective from the date of issue to the 31st day of December next succeeding.

§ 161-8. License renewal for parks and camps.

- A. An application for the renewal of any mobile home park or trailer camp license shall be made with the Town Clerk on or before the first day of December preceding the expiration date of such license.
- B. If the applicant for a renewal license is not the owner of the premises to which the application pertains, the renewal application shall be accompanied by the documents described in § 161-5F hereof.
- C. Upon the approval of the renewal application by the Building Inspector, the Town Board, if satisfied that the provisions of this chapter will be complied with by the applicant, shall by resolution approve the application. The Town Clerk, upon receipt of the applicable fee, shall thereupon issue such renewal license to be effective for a period of one year commencing on the first day of January, following expiration of the prior license.
- D. No renewal license shall be transferable or assignable.

§ 161-9. Application, license and registration fees and costs.

- A. The following fees shall be payable to the Town Clerk of the Town of Grafton.³
 - (1) The application fee for a license or a supplemental license for a mobile home park or trailer camp, which shall be as set from time to time by resolution of the Town Board.
 - (2) The fee for a license for a mobile home park or trailer camp, which shall be as set from time to time by resolution of the Town Board.

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

- (3) The fee for a supplemental license for a mobile home park or trailer camp, which shall be as set from time to time by resolution of the Town Board.
 - (4) The fee for a license for a mobile home to be located outside a mobile home park pursuant to § 161-12 hereof, which shall be as set from time to time by resolution of the Town Board.
- B. No application, license or other fees shall be payable for a period of one year commencing from the effective date of this chapter, with regard to mobile home parks which are in existence on said effective date.

§ 161-10. Requirements for mobile home parks.

- A. Every mobile home park shall be at least 10 acres in size and shall be located in an area where grades and soil conditions are suitable for use as mobile home sites, on a well-drained site properly graded to ensure rapid drainage and be free at all times from stagnant pools of water. The park shall be free or shall be made free from heavy or dense growth of brush and woods.
- B. Every mobile home park shall be marked off into mobile home lots.
- (1) The total number of mobile home lots in a mobile home park shall not exceed five per gross acre.
 - (2) Each mobile home lot shall have a total area of not less than 7,500 square feet and no boundary line thereof shall be less than 50 feet in length.
- C. No mobile home shall be parked or otherwise located elsewhere than upon a mobile home pad.
- (1) No such pad shall be nearer than a distance of:
 - (a) Thirty feet to an adjacent mobile home in any direction.
 - (b) One hundred feet to an adjacent property line.
 - (c) One hundred feet to the right-of-way line of any public street or highway.
 - (d) Twenty feet to the nearest edge of any right-of-way boundary of any street within the park.
 - (2) Only one mobile home shall be permitted to occupy any one mobile home lot.
- D. Each mobile home lot shall have a mobile home pad. Every such pad shall:
- (1) Permit the practical placement on and removal from the lot of a mobile home and its appurtenant structures, and the retention of the home on the lot in a stable condition.
 - (2) Be of sufficient size to fit the dimensions of any mobile home placed thereon, together with its appurtenant structures or appendages.
 - (3) Be constructed of an appropriate durable nonporous material which is adequate for the support of any load which may reasonably be expected to be placed thereon.
 - (4) Have a durable surface and be suitably graded to permit rapid surface drainage.

- E. Every mobile home park shall be easily accessible from a public highway or street.
- (1) Any mobile home park containing more than 16 mobile homes shall have two points of entry and exit, but no mobile home park shall have more than four entry and exit points.
 - (2) Every entrance to and exit from a mobile home park shall be so designed and located as to provide safe and convenient movement of persons and vehicles into and out of the park, and to minimize friction with the free movement of traffic on the public highways and streets to which it connects. Every such entrance and exit shall:
 - (a) Be at right angles to the public highway or street to which it connects.
 - (b) Be free of any material which would impede the visibility of a driver on a public highway or street.
 - (c) Be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.
 - (3) Each mobile home park shall have streets providing convenient access to all mobile home lots and other important facilities within the park. All such streets shall:
 - (a) Be improved to not less than a minimum Erwin Plan specifications for Rensselaer County.
 - (b) Be so designed as to permit safe and convenient vehicular circulation within the park.
 - (c) Be adapted to the topography and have suitable alignment and gradient for traffic safety.
 - (d) Intersect at right angles.
 - (e) Have a fifty-foot minimum width of right-of-way.
 - (f) Be paved to a minimum width of:
 - [1] Twelve feet, if for one-way traffic movement only.
 - [2] Twenty feet, if for two-way traffic movement.
- F. Except in case of emergency, no parking shall be allowed on any street in any mobile home park.
- (1) At least one off-street parking space shall be provided on each mobile home lot. Each such space shall:
 - (a) Have a minimum length of 20 feet.
 - (b) Be connected to the street providing access to the mobile home lot by a driveway having a minimum width of nine feet.
 - (2) Additional off-street parking spaces shall be provided within the mobile home park at convenient locations for guests and delivery and service vehicles.

- (a) There shall be one such parking space for each two mobile home lots within the park.
 - (b) Such parking spaces shall be in bays which provide adequate maneuvering space.
- (3) Every such parking space and driveway shall:
- (a) Be constructed on an appropriate durable nonporous material adequate for the support of any load reasonably expected to be placed thereon.
 - (b) Have a durable surface and be suitably graded to permit rapid surface drainage.
- G. The following utilities and service facilities shall be provided in each mobile home park and shall be constructed and maintained in accordance with the regulations and requirements of the Rensselaer County Department of Health, the New York State Department of Health and the Sanitary Code of New York State.
- (1) An adequate supply of pure water for drinking and domestic purposes supplied by pipes to all mobile home lots and service buildings within the park, with proper connections to each building and mobile home.
 - (2) A sewerage system connected to each mobile home and service building situated in the park, to receive the waste from showers, tub, toilets, lavatories and sinks therein, and dispose of the same in a sanitary manner. Sewer connections in unoccupied lots shall be tightly sealed to prevent emission of gas or odors and the breeding or harboring of insects or vermin.
 - (3) Garbage cans with tight-fitting covers, in quantities adequate to permit the disposal of all garbage and rubbish from the park. Such cans shall be kept covered and in sanitary condition at all times. An adequate supply of such cans shall be kept within 100 feet of each mobile home lot. Garbage and rubbish shall be collected and disposed of outside of the park as frequently as may be necessary to ensure that such cans shall not overflow.
 - (4) A storage building suitable for the secure and orderly storage of personal property, such as bicycles, baby carriages, lawn furniture and the like shall be placed on each mobile home lot for the use of the occupants of the mobile home thereon. No combustible or noxious material shall be stored beneath any mobile home, nor shall any personal property be so stored beneath a mobile home as to constitute a health hazard or other public nuisance.
 - (5) Other service buildings as deemed necessary for the normal operation of the park. Such buildings shall be maintained in a clean, orderly and sanitary condition.
 - (6) Not less than one public telephone for each 16 mobile home lots in the park.
 - (7) Weatherproof electric service connections and outlets of a type approved by the New York State Board of Fire Underwriters, for the provision of electric service to each mobile home located or to be located in such park.

- F. Waste from all buildings and trailer lots shall be discharged into an approved public or private sewer system in such manner as not to present a health hazard.
- G. The owner or operator of each trailer camp shall keep a permanent written record of all persons occupying or using the facilities of such camp. Such record shall be available for inspection for a period of at least one year from the date of occupancy. Such record shall include:
 - (1) The names and addresses of the occupants of each travel trailer.
 - (2) The name and address of the owner of each trailer which is not occupied by such owner.
 - (3) The state in which each trailer is registered and the registration number.
 - (4) The name and address of the owner of an automobile or other vehicle which propelled the travel trailer.
 - (5) The state in which such automobile is registered and the registration number.

§ 161-12. House trailers.⁴

- A. The purpose of this section is to regulate the maintenance of house trailers within the Town of Grafton and to prescribe regulations for the parking and location of house trailers within the Town of Grafton.
- B. Permit. No owner or occupant of premises within the Town of Grafton shall use or permit the use of premises for the parking, storage or otherwise locating of a house trailer or house trailers without obtaining a permit therefor, as hereinafter provided.
- C. Application for permit. The application for each trailer permit shall be in writing upon a form provided by the Town Clerk and signed by the applicant. It shall state and contain, by annexations or otherwise, the following:
 - (1) The name and address of the applicant and, if the applicant shall be a partnership, the name and address of each partner; if the applicant shall be a corporation, the name and address of each officer and director thereof.
 - (2) The name and address of the owner or owners of such premises.
 - (3) A legal description of the premises upon which the trailer is proposed to be located.
 - (4) A plot plan drawn to scale, showing the exact proposed location of the house trailer and all other buildings on said plot.
 - (5) If the applicant shall not be the owner of the premises, a statement by the owner or owners consenting that the premises be used for the purpose of parking or locating a trailer.
 - (6) Approval, in writing, by the Rensselaer County Health Department of the water supply and sewage disposal in connection with said proposed house trailer.

⁴ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (7) An undertaking to continuously comply with all the provisions of this section.
 - (8) A description of the trailer which is the subject of the application, giving manufacturer's make, model and serial number, together with manufacturer's descriptive literature of the same, or, in lieu thereof, a photograph, together with a written description giving length, width, height and fire resistance properties.
- D. Requirements for house trailers. No house trailer shall be parked, stored or otherwise located in the Town of Grafton unless the house trailer and the premises upon which it is located meet the following requirements:
- (1) Lot plan. The property for locating a trailer shall be at least one acre in size. The distance from the center of a public road to the front of the trailer shall be not less than 70 feet. A minimum of 25 feet shall be maintained to all other boundary lines.
 - (2) Electric service and connections. All electric service, connections, utilities and appliances in each house trailer shall be approved by the New York State Board of Fire Underwriters and no changes, additions or alterations shall be made without such approval.
 - (3) Garbage disposal. The owner or lessee of each house trailer shall provide proper garbage disposal by means of adequate storage cans with covers and by means of regular removal of accumulation of garbage from the premises.
 - (4) Foundations and slabs. No house trailer shall be parked, stored or otherwise located elsewhere than upon a slab or foundation of sufficient size to fit the dimensions of the house trailer and constructed of an appropriate, durable material which is adequate for the support of any load which may reasonably be expected to be placed thereon.
 - (5) Skirting. A house trailer placed upon a slab as hereinabove provided shall have adequate and suitable skirts on each side of the house trailer made of durable material placed between the bottom of the house trailer and the slab.
 - (6) House trailer size. Each house trailer shall have a minimum of 500 square feet of living space.
 - (7) Additions. All appurtenant structures and additions to house trailers shall conform to the Town of Grafton Building Code⁵ regardless of size.
 - (8) Water supply and disposal of sewage and other water-carried waste. Water supply, disposal of sewage and other water-carried waste shall be installed in accordance with the standards established by the Rensselaer County Health Department.
- E. Issuance of permit. The Town Clerk shall transmit the completed application to the Town Building Inspector for review. Upon receipt thereof, the Building Inspector shall review the applicant's compliance with the provisions of this chapter and the requirements of the Rensselaer County Department of Health. If the applicant has complied with the necessary provisions of this chapter and the requirements of the Rensselaer County Department of Health, then the Building Inspector shall so advise the Town Clerk, in writing, and the

⁵ Editor's Note: See Ch. 125, Fire Prevention and Building Construction.

- H. Each mobile home park shall provide common open space conveniently located for the use of the occupants of such park. Such space shall have a total area equal to at least 10% of the gross land area of the park.
- I. Every mobile home park shall have lawn or other suitable vegetative ground cover on all areas not used for the placement of mobile homes and other buildings, walkways, roads and parking areas. Trees or shrubs shall be provided to the extent necessary to screen objectionable views, and to provide adequate shade and a suitable setting for the mobile homes and other facilities in the park.
- (1) Views which shall be screened include laundry facilities, gas tanks, service buildings and other nonresidential uses, garbage storage and collection areas and all abutting yards of adjacent properties.
 - (2) Other planting shall be provided along those areas within the park which front upon public highways and streets to reduce glare from automobile headlights and provide pleasant outlooks for the living units.
- J. No mobile home shall be placed in any mobile home park unless the same shall have a flush toilet, a tub or shower, a sink, cooking and heating facilities and plumbing and electrical systems for connection to outside systems, all of which comply with all applicable laws, rules and regulations.
- (1) Every mobile home park shall be sufficiently lighted during hours of darkness to provide for the movement of pedestrian occupants of the park to and from mobile homes and service buildings.
 - (2) The owner or operator of each mobile home park shall, on a form to be supplied by the town, make a permanent record of all persons occupying each mobile home therein, such form shall be submitted to the Town Clerk within 30 days of the initial occupancy of a home, within 30 days of any change of occupancy and within 30 days of a request therefor, in writing, by the Inspector.
 - (a) Such form shall be signed by the owner or operator of the park and shall contain the following information:
 - [1] The name and address of each occupant of the mobile home, together with the ages of all who are minors.
 - [2] The date of arrival of the mobile home at the park.
 - [3] The name and address of the owner of the mobile home.
 - [4] The make or factory name, the year of manufacture, the color, the number of rooms or compartments and the overall dimensions of the mobile home.
 - [5] The registration year and number of the mobile home and the state in which so registered.
 - [6] The number of the mobile home lot upon which such mobile home is located.
 - (b) Within 30 days after the departure of any mobile home, the owner or operator of the park shall notify the Town Clerk, in writing, of the date of such departure.

§ 161-11. Requirements for trailer camps.

- A. All of the provisions of § 161-10 hereof shall apply to every trailer camp except as in this § 161-11 otherwise provided. For the purpose of the regulation of travel trailers and trailer camps such § 161-10 shall be read and construed as if the terms “mobile home,” “mobile home lot,” “mobile home park” and “mobile home stand” read “travel trailer,” “trailer lot,” “trailer park” and “trailer stand.”
- B. The total number of trailer lots in any trailer camp shall not exceed 12 per gross acre.
- C. Each trailer lot shall have a total area of not less than 2,500 square feet with a minimum dimension of 30 feet.
- D. No travel trailer shall be parked or otherwise located nearer than a distance of 20 feet to an adjacent travel trailer in any direction.
- E. The following utilities and service facilities shall be provided in each trailer camp and the same shall comply with the regulations and requirements of the Rensselaer County Department of Health, the New York State Department of Health and the Sanitary Code of New York State.
- (1) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and trailer lots within the camp to meet the requirements of such camp. Each lot shall be provided with a cold water tap, the waste from which shall be emptied into a drain connected to an approved disposal system.
 - (2) Toilet and other necessary sanitary facilities for males and females shall be provided in permanent structures. Such facilities shall be housed in either separate buildings or in the same building, in the latter case such facilities shall be separated by soundproof walls. The male and female facilities shall be marked with appropriate signs and have separate entrances for each.
 - (3) Such toilet and other sanitary facilities shall be provided in the following manner:
 - (a) Male facilities shall consist of not less than one flush toilet for every 15 trailers; one urinal for every 15 trailers; one lavatory for every 10 trailers; one shower, with an adjoining dress compartment of at least 16 square feet, for every 10 trailers.
 - (b) Female facilities shall consist of not less than one flush toilet for every 10 trailers; one lavatory for every 10 trailers; one shower, with an adjoining dress compartment of at least 16 square feet, for every 10 trailers.
 - (4) Lavatory and shower facilities shall be supplied with hot and cold running water.
 - (5) The buildings housing such toilet and sanitary facilities shall be well-lighted at all times of the day and night; shall be well ventilated with screened openings; shall be well heated; and shall be clean and sanitarily maintained at all times. The floors of such buildings shall be of a water-impervious material.
 - (6) Such buildings shall not be located nearer than 20 feet to nor further than 200 feet from any travel trailer.

- Town Clerk shall issue a permit, permitting the house trailer to be parked or located upon the premises.
- F. Fees. The applicant for house trailer permit shall at the time of issuance of any such permit pay to the Town Clerk a fee as set from time to time by resolution of the Town Board.
- G. Issuance of certificate of occupancy. No house trailer shall be occupied for dwelling purposes without a certificate of occupancy being issued therefor as hereinafter provided.
- (1) Upon receipt of the house trailer permit, the holder thereof may move the subject house trailer upon the premises.
 - (2) Following the parking or locating of a house trailer upon the premises as aforesaid, the Building Inspector, at the request of the holder of the permit, shall inspect the premises and house trailer. In the event that the holder of the permit has complied with all the terms, conditions and requirements of this chapter and the house trailer and the premises upon which it is parked meet the requirements of this chapter, then the Building Inspector shall issue a certificate of occupancy.
- H. Singularity of permit and certificate of occupancy. Each permit and certificate of occupancy shall be issued only for the house trailer and the location described in the application, and if the owner or lessee shall replace such house trailer with another house trailer, a new permit and certificate of occupancy will be required. If a house trailer for which a permit and certificate of occupancy have been issued shall be relocated or moved, either on the same plot or another plot within said township, a new permit and certificate of occupancy shall be secured.
- I. Application of this chapter to existing house trailers. Any house trailer parked, stored or otherwise located within the Town of Grafton prior to the effective date of this section and occupied as a dwelling may remain in position or place in which it is then parked subject to the former trailer ordinance of the Town of Grafton; provided, however, that no such house trailer shall be moved to a new location in the Town of Grafton except in compliance with the provisions of this section. The owner of an existing house trailer who proposes to replace the same with another house trailer in the same location shall first obtain a permit and certificate of occupancy and comply with all of the terms and conditions hereof, except for the condition set forth in § 161-12D(1) above when compliance with said condition would work an undue hardship.
- J. Highway parking prohibited. No house trailer shall be parked or allowed to remain upon any public highway or private way in the Town of Grafton.
- K. Temporary parking.
- (1) Any owner of land who shall have begun the construction of a dwelling house for his own use and occupancy upon a parcel of land located in the Town of Grafton may apply to the Town Clerk and be granted a permit to park a house trailer upon said parcel during the erection of said dwelling house. The aforesaid permit shall be issued by the Town Clerk for a period not in excess of six months from the date of issuance thereof, or until such dwelling shall have been completed for occupancy, whichever is the shorter period. Said permit shall be extended by letter from the Town Board for a period not exceeding an additional six months from the date of expiration. Said permit

shall be granted upon payment of a fee as set from time to time by resolution of the Town Board, and all of the other provisions with reference to the issuance of a permit for house trailers shall be waived.

- (2) Any owner or lessee of land or contractor engaged by the owner or lessee of land located in the Town of Grafton may use a house trailer as a field office or dressing room for workmen on construction projects. The land owner or land lessee shall apply to the Town Clerk and after compliance with the provisions of this chapter and payment of a fee as set from time to time by resolution of the Town Board be granted a permit to park said house trailer upon said parcel of land for the duration of the particular work project. The aforesaid permit shall be issued for a period not to exceed one year from the date of issuance thereof or until the work project is completed, whichever is the shorter period. Said permit may be extended by the Town Board for a period of one year or until the work project has been completed, whichever is the shorter period.
- (3) Any owner or lessee of land located in the Town of Grafton may apply for a temporary permit for a noncomplying use not to exceed 20 days, and such permit shall be issued by the Town Clerk, without fee, on good cause shown. Application shall be made in writing to the Town Clerk, but such application need not comply with the provisions of § 161-12C hereof. No such temporary permit shall be renewed or extended or repeated within any single calendar year.

- L. Revocation. If the Building Inspector or any authorized representative of the town finds that any house trailer is not being maintained in accordance with the provisions of this chapter, such facts shall thereupon be reported to the Town Board, and said Town Board may direct the Town Clerk to serve an order, in writing, upon the holder of the permit directing that the conditions therein specified be remedied within 10 days after date of service of such order. If such conditions are not corrected after the expiration of said ten-day period, the Town Board may cause a notice, in writing, to be served upon the holder of said permit requiring said holder to appear before the Town Board at a time to be specified in such notice and show cause why such permit and certificate of occupancy should not be revoked. The Town Board may, after a hearing at which testimony of witnesses may be taken and the holder of the permit shall be heard, revoke such permit and certificate of occupancy if said Town Board shall find that said trailer house and the premises upon which it is situate is not being maintained in a clean and sanitary condition, or that any provision of this chapter has been or is being violated or that the fees provided for in this chapter have not been paid or for other sufficient cause. Upon the revocation of such permit and certificate of occupancy, the house trailer shall forthwith be removed therefrom.
- M. Issuance of a permit not a waiver. Issuance of a house trailer permit or certificate of occupancy pursuant to the provisions of this chapter shall not be deemed to waive compliance by the holder thereof by the property owner or by any occupant of said house trailer of any statute of the State of New York or ordinance or health regulation of the County of Rensselaer or the Town of Grafton.

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NEW YORK 12207

(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 a new matter.

Town of Grafton

Local Law No.1 of the year 2013

A local law to amend Town Code 161-14 relating to travel trailers located outside of trailer camps

Be it enacted by the Town of the Town of Grafton as follows:
Board

Be it enacted by the Town Board of the Town of Grafton as follows:

Section I. Title:

A local law to amend Town Code 161-14 relating to travel trailers located outside of trailer camps.

Section II. Intent:

It is the intent of this local law to provide for a procedure under Town Code section 161 to allow travel trailers located outside of trailer camps on a permitted basis after review by the Planning Board, and overnight occupancy on principal residences with the Code Enforcement Officers approval.

Section III. Delegation to Planning Board:

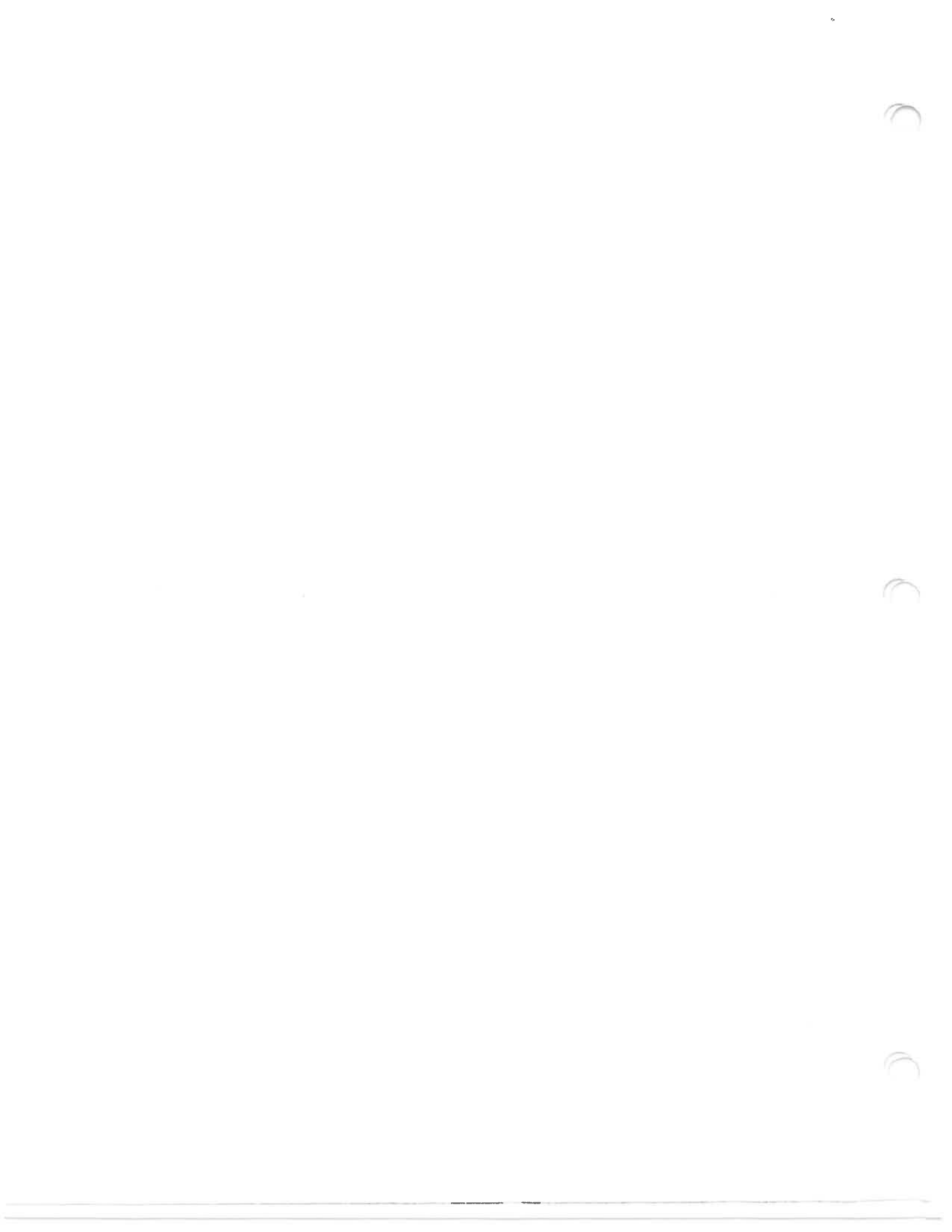
The Town Board hereby amends section 161-14 to read as follows:

- A. No occupied travel trailer shall hereafter be parked or otherwise placed within the town unless such travel trailer is parked or placed in a duly licensed trailer camp or unless such travel trailer receives site plan approval for temporary use from the Grafton Planning Board under the criteria provided for under Town Code Section 186 relating to site plans and provided the travel trailer shall solely use the bathroom facilities of the permanent structure on said property unless otherwise approved by the Rensselaer County Department of Health, the trailers shall be allowed for a maximum of 60 hours per year and the applicant consents



to reasonable conditions to protect the health, welfare and safety of the general public, including all adjoining neighbors & in conformance with the NYS Sanitary Code, Subpart 7-3, Campgrounds.

- B. Where not otherwise prohibited travel trailers, and/or recreational vehicles used as sleeping quarters may be parked or otherwise placed at a principal residences provided the travel trailers, and/or recreational vehicles shall solely use the bathroom facilities of the permanent structure on said property unless otherwise approved by the Rensselaer County Department of Health, the trailers shall be allowed for a maximum of 60 hours per year and the applicant consents to reasonable conditions to protect the health, welfare and safety of the general public, including all adjoining neighbors. It is recommended the principal town resident contact the Code Enforcement Officer as to the location, arrival date, and departure date prior to the impending visit.



Section IV. Prior Existing Uses/Variances:

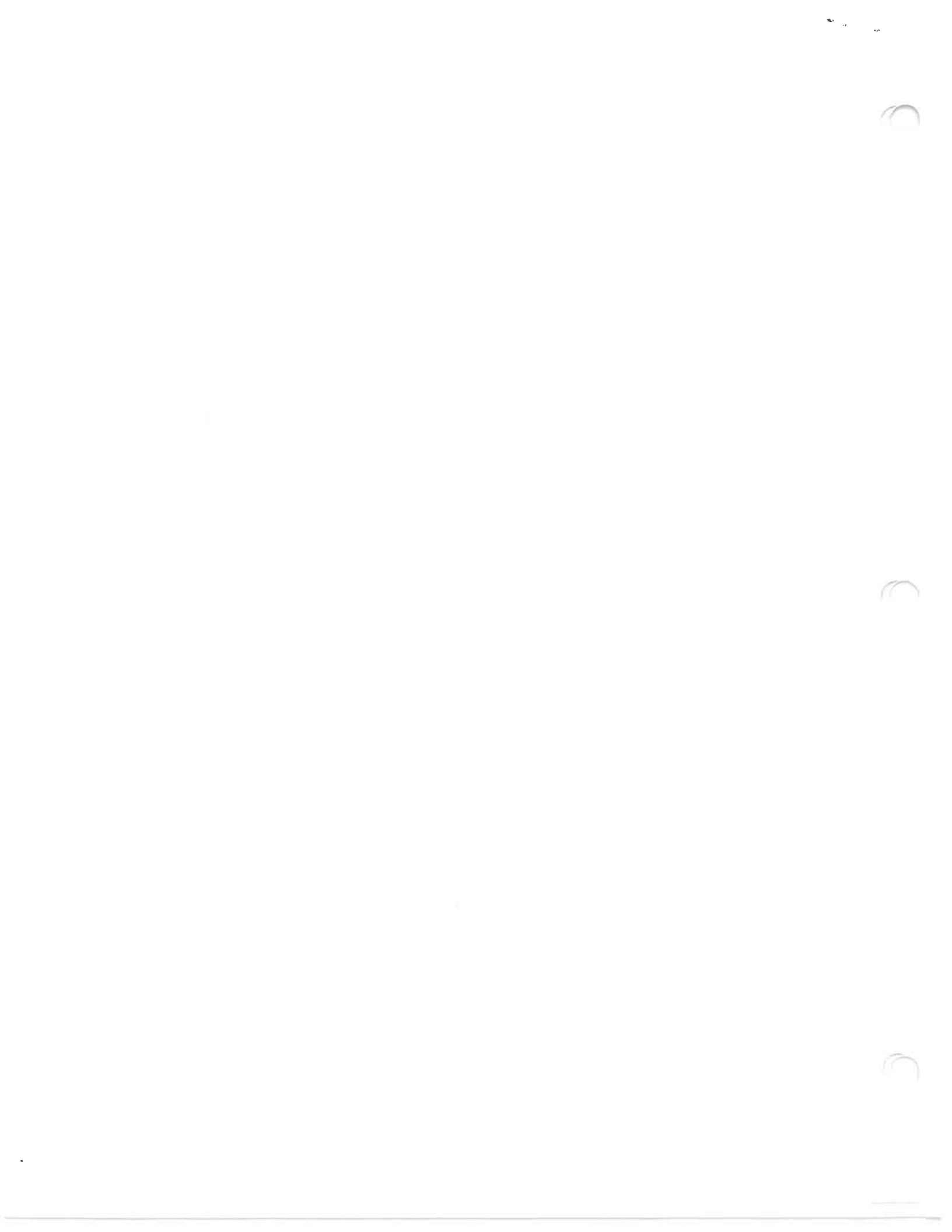
Site plan permits under section 161-14 shall be valid for a 5 year period and shall be renewed unless the applicants violates the terms or conditions of said approval. Variances provided by the Town Board under section 161-14 shall be valid for a 5 year period from the effective date of this local law unless the applicant violates the terms or conditions of any variance or approval existing on the date of this local law.

Section V. Savings Clause:

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation of the clause, sentence, paragraph, worked section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section VI Effective Date:

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



§ 161-13. Existing mobile homes.

- A. A mobile home which is lawfully in existence prior to the enactment of this chapter but not located in a mobile home park may be continued to be used as living quarters by its occupants, provided that the mobile home complies with all the applicable provisions, rules and regulations of the mobile home ordinance heretofore duly adopted by the Town Board of the Town of Grafton.
- B. The owner of land upon which the mobile home is located may substitute a mobile home of superior or the same construction if all the applicable provisions, rules and regulations of the mobile home ordinance heretofore duly adopted by the Town Board of the Town of Grafton are complied with.
- C. If the owner of the land upon which a mobile home is located sells his mobile home and land, the purchaser of said mobile home and land shall accede to the same rights, obligations and duties enjoyed by the seller under the terms of this chapter and the heretofore duly adopted mobile home ordinance as aforesaid.
- D. If an existing mobile home is destroyed by fire, wind, storm or other elements so as to render it uninhabitable, the owner of the land upon which the destroyed mobile home is located may substitute a mobile home of superior or the same construction on the property if said mobile home is located on the property within a period of two years from the date of the destruction of said mobile home.
- E. In the event that an existing mobile home is destroyed by fire, wind, storm or the elements so as to render it uninhabitable, or is removed from the land, and the owner sells his land, then no mobile home shall thereafter be parked or otherwise placed on the land except as hereinabove provided in § 161-12 of this chapter.

§ 161-14. Travel trailers located outside of trailer camps.

No occupied travel trailer shall hereafter be parked or otherwise placed within the town unless such travel trailer is parked or placed in a duly licensed trailer camp.

§ 161-15. Enforcement.

The Building Inspector of the Town of Grafton shall enforce all of the provisions of this chapter. Such Building Inspector shall have the right, at all times, to enter and inspect any mobile home park and trailer camp and all records which by this chapter are required to be kept by by the owner or operator thereof.

§ 161-16. Revocation of mobile home park or trailer camp license.

If a police officer, the Building Inspector or any authorized representative of the town finds that any mobile home park or trailer camp is not being maintained in a clean and sanitary condition or is not being conducted in accordance with the provisions of this chapter, or that the applicable fees provided for in this chapter have not been paid, or that the applicable registration provisions of this chapter are not being carried out, such facts shall thereupon be

reported to the Town Board and said Town Board may direct the Town Clerk to serve an order in writing upon the holder of the license for such park or camp directing that the conditions therein specified be remedied within 10 days after date of service of such order. If such conditions are not corrected after the expiration of said ten-day period, the Town Board may cause a notice in writing to be served upon the holder of said license requiring said holder to appear before the Town Board at a time to be specified in such notice and show cause why such license should not be revoked. The Town Board may, after a hearing at which testimony of witnesses may be taken, and the holder of the license shall be heard, revoke such license if said Town Board shall find that said park or camp is not being maintained in a clean and sanitary condition, or that any provision of this chapter has been or is being violated or that the fees provided for in this chapter have not been paid or for other sufficient cause. Upon the revocation of such license, the premises shall immediately cease to be used for the purpose of a mobile home park or trailer camp and all mobile homes and travel trailers, as the case may be, shall forthwith be removed therefrom.

§ 161-17. Penalties for offenses.⁶

Any person who violates any provision of this chapter shall be guilty of a violation against such law punishable by a fine of not more than \$250 and not more than 15 days imprisonment. 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 to be recovered by the Town of Grafton in a 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 license issued pursuant thereto or the enforced removal of conditions prohibited by this chapter.

§ 161-18. Issuance of license not to waive compliance with other regulations.

The issuance of any license pursuant to the provisions of this chapter shall not be deemed to waive compliance by any person with any statute of the State of New York or law, ordinance or health regulation of the town or of the county.

§ 161-19. Exceptions.

None of the provisions of this chapter shall be applicable to the following:

- A. The storage or garaging of travel trailers, not being used for living or sleeping purposes, within a building or structure or the storage of one unoccupied travel trailer on premises occupied as the principal residence of the owner of such travel trailer; provided, however, that such unoccupied travel trailer shall not be parked or located between the street line and the front building line of such premises.
- B. Travel trailers or mobile homes for the purpose of sale and/or repair. These may not be used for sleeping or living uses.

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- C. A mobile home or travel trailer located on the site of a construction project, survey project or other similar work project and which is used solely as a field office or work or tool house in connection with such project, provided that such mobile home or travel trailer is removed from such site within 30 days after the completion of such project.
- D. A sectional house which is prefabricated in sections, transported to the building site, then fastened together and placed on a permanent and totally enclosed masonry foundation and which has a minimum width of 18 feet for entire length and contains a minimum of 1,000 square feet of usable living space.



Chapter 169
PARKS AND RECREATION

ARTICLE I
Use of Snowmobiles and ATV's

ARTICLE II
Park Hours

§ 169-1. Use prohibited.

§ 169-3. Hours established.

§ 169-2. Penalties for offenses.

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

ARTICLE I
Use of Snowmobiles and ATV's
[Adopted 12-23-1986]

§ 169-1. Use prohibited.

No snowmobile or ATV's be allowed in the town park at any time.

§ 169-2. Penalties for offenses.¹

Any person committing an offense against any provision of this article shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not to exceed 15 days, or both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate, distinct offense hereunder.

ARTICLE II
Park Hours
[Adopted 8-10-1988]

§ 169-3. Hours established.

The town park shall be closed at dusk/sunset.

¹ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



Chapter 173

PEDDLING AND SOLICITING

§ 173-1. Statement of purpose.

§ 173-2. Definitions.

§ 173-3. License required.

§ 173-4. Information to be submitted.

§ 173-5. Restrictions.

§ 173-6. License fees.

§ 173-7. Exempt parties.

§ 173-8. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Grafton at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

§ 173-1. Statement of purpose.

This chapter is adopted to regulate the distribution of certain materials, peddling, soliciting and related activities within the Town of Grafton. The licensing of persons engaged in the above-mentioned activities is required so that the identity of persons going door to door or distributing materials within the town may be established and so that general regulations may be more effectively enforced, for the protection and maintenance of the health, safety and welfare of the residents of the town and to prevent dishonest business practices and dishonest solicitation of funds in the town.

§ 173-2. Definitions.

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

MERCHANDISE — All goods, wares, food, meat, fish, ice cream, fruit, vegetables, magazines, periodicals, printed material, farm products, services and orders or contracts for services, home improvements or alterations and anything that may be sold or distributed by peddlers or solicitors as used herein.

PEDDLER — Any person, whether a resident of the town or not, who goes from house to house, from place to place or from road to road, traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers.

PERSON — Any individual, firm, partnership, corporation, organization, club, association or any principal or agent thereof.

SOLICITOR:

- A. Any person, whether a resident of the town or not, who goes from house to house, from place to place or from road to road, traveling by foot, automotive vehicle or any other type of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or

services and whether or not he/she is collecting advance payments on such sales or orders, who engages in any of the foregoing activities from a stationary or other public place.

- B. The word "solicitor" shall also include the word "canvasser."
- C. Any person who goes from door to door, as described above, for the purpose of soliciting and/or collecting funds or solicits and/or collects funds from a stationary location on any street or road or other public place.

TRANSIENT MERCHANT — Any person engaging in the activities commonly referred to as "transient merchant" or "itinerant vendor" who merchandises or sells with the intent to close out or discontinue such business within a period of one year from the date of commencement and who occupies a room, building, tent, lot or other premises for the purpose of selling merchandise.

§ 173-3. License required.

It shall be unlawful for any peddler, solicitor or transient merchant to sell, offer for sale or distribute merchandise, printed merchandise, printed material or services within the Town of Grafton without first applying for and obtaining a license from the town. The Town Clerk or his/her representative shall be the issuing officer of the license.

§ 173-4. Information to be submitted.

The following information shall be provided:

- A. The length of time for which the license is desired.
- B. If a vehicle is to be used, a description of such vehicle and its license number.
- C. The place where the merchandise or services to be sold or offered for sale are manufactured or produced, where such goods or property is located at the time such application is filed and the proposed method of delivery.
- D. The merchandise or services to be sold or offered for sale.
- E. Two business references located in the State of New York.

§ 173-5. Restrictions.

No person or license holder shall:

- A. Peddle, solicit or distribute merchandise except between the hours of 8:00 a.m. and 5:00 p.m., unless specifically having been invited into a house by the occupant or having made an appointment with a person previously. Vendors of food products shall be exempt from this restriction.
- B. Attempt to peddle, solicit or distribute merchandise or printed material without first having identified himself as a peddler, solicitor or distributor registered with the Town of Grafton and displaying the license.

- C. Have an exclusive right to any location in the public roadways or streets or operate in any congested area where the operations might impede or inconvenience the public.
- D. Enter or attempt to enter the land of any resident in the Town of Grafton without an express invitation from the occupant of the house.
- E. Conduct themselves in such a manner as to become objectionable to or annoy an occupant of any house.
- F. Shout, cry out, blow a horn or use any sound-making or amplifying device upon any of the streets or roadways, parks or public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, roads, parks or other public places of the town or upon private premises therefrom, for the purpose of attracting attention to any merchandise or service.
- G. Distribute obscene merchandise or printed material or that which advocates unlawful conduct.
- H. Litter the streets and roadways, public places or properties within the town with any merchandise or printed material.

§ 173-6. License fees.

The fees to be paid for a license to engage in the operation of peddler, solicitor, distributor or transient merchant shall be provided in the licensing fee schedule as adopted by the Town Board.

§ 173-7. Exempt parties.

The following persons and organizations are exempt from the requirements of this chapter:

- A. Any person possessing a peddler's license issued in conformity with the New York State General Business Law.
- B. Any person engaged in the delivery of goods, wares or merchandise or other articles or things, in the regular course of business, to the premises of persons who had previously ordered the same or were entitled to receive the same by reason of prior agreement.
- C. Any person selling fruits and farm products produced by themselves, with or without the help of others.
- D. Any school, charitable, political or civic organization, benevolent society, service club or nonprofit organization which is located in or has a substantial membership from the town.

§ 173-8. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not to exceed 15 days, or both such

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

Chapter 186

SITE PLAN REVIEW

§ 186-1. Scope; intent and purpose.

§ 186-2. Applicability; exceptions.

§ 186-3. Procedures.

§ 186-4. Reimbursable costs.

§ 186-5. Inspection and enforcement.

§ 186-6. Integration of procedures.

[HISTORY: Adopted by the Town Board of the Town of Grafton 4-13-1998 by L.L. No. 3-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 204.

§ 186-1. Scope; intent and purpose.

- A. The Town Board of the Town of Grafton hereby authorizes the Grafton Town Planning Board to review and approve the site plans for land uses within the town in accordance with § 274-a of the Town Law of the State of New York and the standards and procedures set forth in this chapter.
- B. Through site plan review, it is the intent of this chapter to promote the health, safety and general welfare of the town. It is further the intent of this chapter to ensure protection, preservation, development and use of the natural and man-related resources of the town by regulating land use activity which will meet the standards set forth in this chapter.

§ 186-2. Applicability; exceptions.

- A. Prior to commencing any change in land use or the construction or change of use of any structure within the town, except as listed in Subsection B, the owner shall submit a site plan to the Planning Board for its review in accordance with the standards and procedures set forth in this chapter. Any subsequent changes to the initial approved site plan require application to the Planning Board. No building permit shall be issued for a structure covered by this chapter without prior Planning Board approval of the final site plan.
- B. Exceptions shall be as follows:
 - (1) Construction of a one- or two-family dwelling and related accessory use.
 - (2) General farming use.
 - (3) Nursery use.
 - (4) Lumbering that does not include clear cutting.
 - (5) Construction of sign not of an advertising nature.

§ 186-3. Procedures.

- A. Waivers. The Planning Board may waive the requirement for part or parts of the following procedural steps.
- B. Sketch plan. A sketch plan conference between the Planning Board and applicant shall be held to review the basic site design concept and generally determine the information to be required on the preliminary site plan. At the sketch plan conference the applicant should provide the data described below in addition to a statement or rough sketch describing what is proposed.
- (1) An area map showing the parcel under consideration for site plan review, and all properties, subdivisions, streets and easements within 200 feet of the boundaries thereof. Such area map shall be oriented to the nearest street or highway intersection.
 - (2) A topographic or contour map of adequate scale and detail to show site topography.
- C. Application for preliminary site plan approval. An application for preliminary site plan review shall be made in writing to the Planning Board and shall be accompanied by information drawn from the following checklist, as determined necessary by the Planning Board at the sketch plan conference.
- (1) Preliminary site plan checklist:
 - (a) Title of drawing, including names and address of applicant and person responsible for preparation of such drawing.
 - (b) North arrow, scale and date.
 - (c) Boundaries of the property plotted to scale.
 - (d) Existing watercourses.
 - (e) Grading and drainage plan, showing existing and proposed contours at an appropriate interval.
 - (f) Location, proposed use, exterior dimensions and height of all buildings.
 - (g) Location, design and construction materials of all parking and truck loading areas, with access and egress drives thereto.
 - (h) Provision for pedestrian access.
 - (i) Location of outdoor storage.
 - (j) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining, walls and fences.
 - (k) Description of the method of disposal of sewage and other wastes and location, design and construction materials of such facilities.
 - (l) Description of the method of securing water and location, design and construction materials such facilities.
 - (m) Location of fire and other emergency zones, including the location of fire hydrants.

- (n) Location, design and construction materials of all energy distribution facilities, including electric, gas and solar energy, or any other type of energy distribution facilities.
 - (o) Location, size, design and construction materials of all proposed signs.
 - (p) Location and proposed development of all buffer areas, including indication of existing vegetative cover.
 - (q) Location and design of outdoor lighting facilities.
 - (r) Designation of the amount of building area proposed for retail sales or similar commercial activity.
 - (s) General landscaping plan and planting schedule.
 - (t) Description of potential impact on present local facilities such as school, fire department, police, solid waste disposal.
 - (u) Description of all material that may be stored, used or created on site that may be hazardous to human health or the environment.
 - (v) Other elements integral to the proposed development, as considered necessary by the Planning Board, including identification of any federal, state or local permits required for the project's execution and identification of any easements or reservations and deed restrictions or covenants (existing or proposed).
 - (w) Environmental assessment form.
- (2) Required fee. An application for preliminary site plan review and approval shall be accompanied by a fee as set from time to time by resolution of the Town Board.¹
- D. Planning Board review of preliminary site plan. The Planning Board's review of a preliminary site plan shall include, as appropriate but not limited to, the following:
- (1) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, channelization structures and traffic controls.
 - (2) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections and vehicular traffic and overall pedestrian convenience.
 - (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (4) Location, arrangement, size, design and general site compatibility of buildings, lighting and signage.
 - (5) Adequacy of stormwater and drainage facilities.
 - (6) Adequacy of water supply and sewage disposal facilities.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. D).

- (7) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
 - (8) In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
 - (9) Protection of adjacent or neighboring properties against noise, odors, glare, unsightliness or objectionable or dangerous features.
 - (10) Adequacy of fire lanes and other emergency zones and the provisions of fire hydrants.
 - (11) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- E. Consultant review. The Planning Board, in its review of a preliminary site plan, may consult with local and county officials, private consultants and representatives of federal and state agencies, including but not limited to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.
- F. Public hearing. The Planning Board may conduct a public hearing on the preliminary site plan. Such a public hearing shall be conducted within 62 days of the receipt of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the town at least five days before the public hearing.
- G. Planning Board action on preliminary site plan.
- (1) Within 62 days of such public hearing, or within 62 days of such application if no hearing is held, the Planning Board shall act on the preliminary site plan. The Planning Board's action shall be in the form of a written decision stating whether the preliminary site plan is approved, disapproved or approved with modifications.²
 - (2) If the Planning Board's decision includes recommendations of modifications to be incorporated in the final site plan, inclusion of said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement will contain the reasons for such findings.
- H. Procedure for final site plan approval.
- (1) After receiving approval, with or without modification, from the Planning Board on a preliminary site plan, the applicant shall submit a final detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan and if the interim, the Planning Board may require a resubmission of the site plan for further review and prior to accepting the proposed review. The final detailed site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modification that may have been recommended by the preliminary review. All such companies shall be clearly indicated by the applicant on the appropriate submission.

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

- (2) The following additional information shall accompany an application for final site plan approval:
 - (a) Record of application for and approval status of all necessary permits from state and county officials.
 - (b) Specifications for construction as may be required by the Planning Board.
 - (c) An estimated project construction schedule.
- I.³ Planning Board action on final site plan. Within 62 days of receipt of the application for final site plan approval the Planning Board shall render a decision to the applicant.
 - (1) Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the town, the Planning Board shall endorse its approval on a copy of the final site plan and shall forward copies to the applicant and Building Inspector.
 - (2) Upon disapproval of the final site plan, the Planning Board shall notify the applicant in writing of its decision and its reasons for disapproval.
- J. Notice to County Planning Board or agency or regional planning council. At least 10 days before such hearing, the Planning Board shall mail notices thereof to the County Planning Board or agency or regional planning council, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision 1 of § 239-m of the General Municipal Law. In the event that a public hearing is not required, such proposed action shall be referred before final action is taken thereon.⁴
- K. Compliance with State Environmental Quality Review Act. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.⁵

§ 186-4. Reimbursable costs.

Reimbursable costs shall be actual costs incurred by the Planning Board for consultation fees and other expenses in connection with its review of an applicant, not to exceed \$50 per acre or fraction thereof. Such costs shall be in addition to the fee required in § 186-3C(2) herein.

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

⁴ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁵ Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 186-5. Inspection and enforcement.

The Town Building Inspector shall be responsible for the overall inspection of site improvements. Failure of the applicant to conform to the representations made by the applicant in the application and hearing process or failure to conform to the terms and conditions of the site plan approval or this chapter shall be deemed a violation of the law and is declared to be an offense punishable by fines not exceeding the maximum set forth in Town Law § 268. In addition, the town may institute any appropriate action or proceedings pursuant to the provisions of Town Law § 268. The Town Building Inspector is charged with the enforcement of this chapter.

§ 186-6. Integration of procedures.

Whenever the particular circumstances of a proposed development require compliance with the requirements of the Grafton Subdivision Regulations, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this chapter with the procedural and submission requirements for such other compliance.

Chapter 191

SNOWMOBILES

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| <p>§ 191-1. Legislative intent.</p> <p>§ 191-2. Legislative authority.</p> <p>§ 191-3. Short title.</p> <p>§ 191-4. Definitions.</p> | <p>§ 191-5. Operations on town highways.</p> <p>§ 191-6. Condition and restriction on snowmobile operation.</p> <p>§ 191-7. Penalties for offenses.</p> |
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[HISTORY: Adopted by the Town Board of the Town of Grafton 8-9-1971 by L.L. No. 2-1971. Amendments noted where applicable.]

GENERAL REFERENCES

Snowmobiles in parks — See Ch. 169, Art. I.

Vehicles and traffic — See Ch. 225.

§ 191-1. Legislative intent.

The purpose of this chapter is to protect the public health, welfare and safety by regulating the operation of snowmobiles within the Town of Grafton 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 the highways and other lands of the town compatible with the use for vehicular and pedestrian travel and other uses.

§ 191-2. Legislative authority.¹

This chapter is enacted pursuant to the provisions of the Parks, Recreation and Historic Preservation Law.

§ 191-3. Short title.

This chapter shall hereafter be known and cited as the “Town of Grafton Snowmobile Local Law.”

§ 191-4. Definitions.²

For the purpose of this chapter the definition of words, phrases and terms adopted by §§ 1.03 and 21.05 of the Parks, Recreation and Historic Preservation Law or by rules and regulations of the Office of Parks and Recreation supplemental thereto are incorporated herein. Wherever the word “town” is used herein reference shall be to the Town of Grafton.

¹ Editor’s Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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

§ 191-5. Operations on town highways. [Amended 2-10-1975 by L.L. No. 1-1975³]

Other than as provided in § 25.05 of the Parks, Recreation and Historic Preservation Law of the State of New York, snowmobiles may be operated on the shoulder or inside bank of the following town highways and no others, it being hereby determined that as to such highways, the slopes or areas outside the guardrails or on the back side of the snow embankments are nonexistent or impassable; provided, however, that such highways are identified by road markers in such manner as is provided by the rules and regulations of the Commissioner of the State of New York, Department of Conservation:

Shaver Pond Road	Red Pond Road
Kautz Hollow Road	Snyder Road
Steve O'Dell Road	Varville Road
Fire Tower Road	Dyking Pond Road
Beiderman Road	Foster Corners Road
Yerdon Road	Crandall Road
Haden Road	All roads around Babcock Lake
Cranberry Pond Road	Edelman Road
Jay Hakes Road	Owens Road
Simons Road	Stuffle Street
Dunham Road	Rourke Road
North Long Pond Road (from Route 2 to Kautz Hollow Road)	South Long Pond Road

§ 191-6. Condition and restriction on snowmobile operation.⁴

Whenever the operation of a snowmobile is permitted on any highway in the town as provided in § 191-5 above, the conditions and restrictions set forth in § 25.01 et seq. of the Parks, Recreation and Historic Preservation Law shall be applicable to all such snowmobile operation.⁵

§ 191-7. Penalties for offenses.⁶

Failure to comply with any of the provisions of this chapter shall be deemed a violation and the violator shall be liable to a fine of not more than \$250 or imprisonment for not to exceed 15 days, or both such fine and imprisonment.

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

⁴ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁵ Editor's Note: Former Subsection (1), regarding liability insurance, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

Chapter 195
SOLID WASTE

ARTICLE I
Dumping

- § 195-1. Legislative intent.
- § 195-2. Definitions.
- § 195-3. Dumping prohibited.
- § 195-4. Penalties for offenses.
- § 195-5. Construal of provisions.

- § 195-7. Definitions.
- § 195-8. Recycling.
- § 195-9. Disposal of residential and farm hazardous waste.
- § 195-10. Disposal of infectious and hazardous waste.
- § 195-11. Unauthorized dumping.
- § 195-12. Enforcement; penalties for offenses.

ARTICLE II
Collection and Disposal

- § 195-6. Findings and purpose.

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

ARTICLE I
Dumping
[Adopted 8-10-1987]

§ 195-1. Legislative intent.

By the adoption of this article the Town Board of the Town of Grafton declares its intent to regulate, in a matter consistent with the health and welfare of the citizens of the Town of Grafton, dumping of waste material on lands within the town. Waste material is a deleterious substance, injurious to health and harmful to the environment. Recognizing the need for the Town of Grafton to adequately regulate the procedure by which waste material is disposed of on lands within the town and in the exercise of its police power in these regards, the Town Board of the Town of Grafton does hereby enact this article.

§ 195-2. Definitions.

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

PERSON — Includes any individual, partnership, unincorporated association, public or private corporation, government or government instrumentality.

TO DUMP — To throw, dispose of, discard, discharge, deposit or place. A “dump” shall be deemed to be any place where waste material is so dumped.

WASTE MATERIAL — Any rubbish, garbage, refuse, sludge, building demolition debris and any solid, liquid or semisolid material which has served its original, intended use and is being discarded.

§ 195-3. Dumping prohibited.

No person shall use any land within the Town of Grafton as a dump or sanitary landfill, nor shall any person dump on land within the town or cause to be dumped on such land any waste material, nor dispose or attempt to dispose of any waste material by burying, burning or in any other manner upon lands within the Town of Grafton. Any person who violates this article shall be deemed to have committed an offense against this article and each day such violation shall continue or be permitted to exist shall constitute a separate offense.

§ 195-4. Penalties for offenses.

- A. Any person violating this article or any section or provision thereof is guilty of an unclassified misdemeanor punishable by a fine not exceeding \$5,000 per offense or imprisonment for a period not exceeding three months for each such offense or by both such fine and imprisonment, and may be ordered to clean up and remove the waste material unlawfully dumped.
- B. The Town of Grafton may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with or to restrain violation of this article.

§ 195-5. Construal of provisions.

This article is in no way intended to affect or invalidate the ordinance entitled "An Ordinance Licensing and Regulating Dealers in Secondhand, Junk, Appliance and Auto Parts Activities and Businesses" enacted by the Town Board of the Town of Grafton on August 20, 1962, and published in the official town newspaper.¹

ARTICLE II
Collection and Disposal
[Adopted 5-13-1991 by L.L. No. 1-1991]

§ 195-6. Findings and purpose.²

In order to provide for the public health and safety and to facilitate the conservation of vital natural resources, the town declares its intent to regulate the throwing, dumping, depositing and placing of solid waste, including recyclables, on lands within the town.

¹ Editor's Note: See Ch. 150, Junk and Junk Dealers.

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

§ 195-7. Definitions.

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

BULK ITEM — An item of solid waste larger than two feet by two feet by four feet, having a weight in excess of 50 pounds and generated in a residence.³

COMMERCIAL AND INDUSTRIAL WASTE — All nonhazardous and nontoxic solid wastes generated by commercial and industrial sources, including commercial and industrial by-products.⁴

CONSTRUCTION AND DEMOLITION DEBRIS — Solid waste resulting from construction, remodeling, repair and demolition of structures, road building and land clearing. Such wastes include but are not limited to bricks, concrete and other masonry materials, soil, rock, lumber, road spoils, paving material and tree and brush stumps.

DISCARD OR DISCARDED — Thrown away, disposed of, rejected, burned, incinerated, accumulated, stored or physically, chemically or biologically treated. A material or substance is disposed of if it is discharged, deposited, injected, dumped, spilled, leaked or abandoned.

DISPOSAL FACILITY — A facility which is used to place solid waste into or on any land or water and at which such solid waste remains for a period longer than 30 days.

HAZARDOUS WASTE — A waste or combination of wastes, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an incapacitating reversible illness or pose a substantial present or potential hazard or threat to human health or the environment, and includes wastes defined and regulated by 6 NYCRR 371, as amended.

PERSON — Any individual, corporation, political subdivision, government agency, authority, partnership, association, trust or any other legal entity.

RECYCLABLES — Any solid waste designated in this article which must be separated from the solid waste stream and held for its recycling or reuse value.

RECYCLABLES DROP-OFF FACILITY — A facility operated and/or owned by a municipality which is designed and used for the collection and temporary storage (less than 30 days) of recyclables prior to the time of movement to a materials recovery facility owned and/or operated by the authority or to recycling markets.

RECYCLER — A person who commercially deals with recyclables, including but not limited to collectors, separators and marketers, but shall not include any person who collects recyclables for not-for-profit or charitable fund-raising purposes.

SOLID WASTE — All putrescible and nonputrescible materials or substances discarded as being spent, useless, worthless or in excess to the owner at the time such materials or

³ Editor's Note: The former definition of "co-composting facility," which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁴ Editor's Note: The former definition of "commercial collection," which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

substances are discarded, having served their intended use, including but not limited to by-products, garbage, refuse, commercial and industrial waste, rubbish, tires, contained gaseous material, construction and demolition debris, recyclables, household and farm hazardous waste, but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, special nuclear or by-product material within the meaning of the Atomic Energy Act of 1954, as amended, or waste which appears on the list or satisfies the characteristics of hazardous waste promulgated by the Commissioner of the New York State Department of Environmental Conservation.⁵

SOURCE SEPARATION — The segregation of recyclables from other solid waste at the point of generation for separate collection, sale or other disposition.

TRANSFER STATION — A facility owned and/or operated by a municipality which is designed to be utilized to transfer solid waste, excluding recyclables, from a vehicle into another transportation unit for movement to a disposal or co-composting facility.

§ 195-8. Recycling.⁶

In order to facilitate the conservation of vital natural resources through recycling, newspapers, clear glass, bi-metal cans or containers, aluminum cans or containers, corrugated cardboard, No. 1 and No. 2 polyethylene terephthalate [PET] and high density polyethylene [HDPE] plastics, office paper, batteries and such other solid waste designated by the town from time to time as recyclable shall be separated from other solid waste prior to being discarded.

§ 195-9. Disposal of residential and farm hazardous waste.

No person shall discard any household hazardous waste or farm hazardous waste in the town except at a solid waste facility specifically designated for such waste by the town.

§ 195-10. Disposal of infectious and hazardous waste.

No person shall discard any infectious or hazardous waste in the town except at a solid waste facility specifically designated for such waste by the town.⁷

§ 195-11. Unauthorized dumping.⁸

It shall be a violation of this article for any person to throw, dump, deposit, place, dispose of or otherwise discard recyclables, except as specifically set forth in this article.

⁵ Editor's Note: The former definition of "solid waste facility," which immediately followed this definition, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁶ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁷ Editor's Note: Former Section 6, solid waste collection and disposal permit, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

⁸ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 195-12. Enforcement; penalties for offenses.⁹

The civil and criminal prosecution of any person for any violation of this article shall lie with the town. Any civil liability for violations shall be in addition to any criminal liability set forth in this article.

- A. Civil liability. Any person who violates any provision of or who fails to perform any duty imposed by this article shall be liable for penalties as follows:
- (1) For a first violation, not less than \$100 nor more than \$500 for each such violation.
 - (2) For a second violation within one year, not less than \$500 nor more than \$1,000 for each such violation.
 - (3) For a third and any subsequent violation within a year, not less than \$1,000 nor more than \$2,500 for each such violations.
- B. Criminal liability. Any person who violates any provision of, or who fails to perform any duty imposed by, this article shall be guilty of an offense and:
- (1) Upon conviction for a first offense shall be punished by a fine of not less than \$100 nor more than \$500.
 - (2) Upon conviction of a second offense within one year shall be punished by a fine of not less than \$500 nor more than \$1,000, or imprisonment for not more than 15 days, or both.
 - (3) Upon conviction of a third and any subsequent offense within one year shall be punished by a fine of not less than \$1,000 nor more than \$2,500, or imprisonment for not more than 15 days, or both.
- C. In any civil or criminal proceeding, any person found to be in violation of any provision of, or for failing to perform any duty imposed by this article may be enjoined from continuing such violations.

⁹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).



Chapter 200
STREETS AND SIDEWALKS

ARTICLE I
Notification of Defects

§ 200-1. Written notice required prior to civil action against town.

§ 200-2. Transmission of notice to Clerk.

§ 200-3. Indexed record of notices to be maintained.

§ 200-4. Construal of provisions.

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

ARTICLE I
Notification of Defects
[Adopted 11-11-1974 by L.L. No. 1-1974]

§ 200-1. Written notice required prior to civil action against town.

- A. No civil action shall be maintained against the Town of Grafton (hereinafter referred to as "the town") or the Town Superintendent of Highways of the town, or against any improvement district in the town for damages or injuries to person or property, including those arising from the operation of snowmobiles, sustained by reason of any highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district therein, being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district, was actually given to the Town Clerk of the town or the Town Superintendent of Highways of the town, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the town or any property owned by any improvement district in the town unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the town or the Town Superintendent of Highways of the town and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.
- B. No civil action will be maintained against the town and/or the Town Superintendent of Highways of the town for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the town or the Superintendent of Highways of the town pursuant to statute, nor shall

any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the town or to the Town Superintendent of Highways of the town and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 200-2. Transmission of notice to Clerk.¹

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

§ 200-3. Indexed record of notices to be maintained.

The Town Clerk of the town shall keep an indexed record, in a separate book, of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice and snow upon any town highway, bridge, culvert or a sidewalk, or any other property owned by the town or by any improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Superintendent of Highways of the town of the receipt of such notice.

§ 200-4. Construal of provisions.

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

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

Chapter 204
SUBDIVISION OF LAND

§204-1. Declaration of Policy.

§204-2. Definitions.

§204-3. Procedure.

§204-4. Preliminary Plat Approval.

§204-5. Final Plat Approval.

§204-6. Subdivision Filing Fees.

§204-7. Plat Data.

§204-8. Design Standards.

§204-9. Required Improvements.

§204-10. Severability.

§204-11 Effective Date.

§204-12 Penalties for Violations

[HISTORY: Adopted by the Town Board of the Town of Grafton 4-13-1998 by L.L. No. 2-1998. And repealed by L.L. No. 2 of 2006]

(Amended by the Town Board of the Town of Grafton November 9, 2006 by L.L. No. 2 of 2006)
(Section 204-12 Added by L.L. No. 1 of 2009 Adopted on April 16, 2009)

General References

Planning Board – See Ch. 41

Site Plan Review – See Ch. 186.

§ 204-1. Declaration of policy.

A. By authority of the resolution adopted by the Town Board on March 18, 1968, pursuant to the provisions of Article 16 of the Town Law, the Planning Board of the Town of Grafton has the power and authority to approve plats for subdivision within the unincorporated area of the Town of Grafton.

B. It is declared to be the policy of the Town Planning Board to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the town. Land to be subdivided shall be of such character that it can be used for building purposes without danger to health or peril from fire, flood or other menace. Proper provisions shall be made for drainage, water, sewerage and other needed improvements. The proposed roads shall compose a convenient system conforming with and properly related to the proposals shown on the Master Plan as it is adopted by the Town Board. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to afford adequate light and air and to facilitate fire protection. In proper cases, park areas of suitable location, size and character for playground or other recreational purposes shall be shown on the subdivision plat.¹

C. Should any of these regulations conflict or be inconsistent with any provisions of the Town Law, such provision of the Town Law shall apply.

D. In order that land may be subdivided in accordance with this policy, these regulations are hereby adopted.

§ 204-2. Definitions.

For the purpose of these regulations, the following frequently used terms are defined herein:

¹ Editor's Note: Amended at time of adoption of Coe (see Ch.1, General Provisions, Art.I)

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

FINAL PLAT or SUBDIVISION PLAT -- A drawing, in final form, showing a proposed subdivision, containing all information or detail required by law and by these regulations, to be presented to the Planning Board for approval, and which, if approved, may be duly filed or recorded by the applicant in the office of the Clerk of the County of Rensselaer.

MAJOR SUBDIVISION -- Any subdivision not classified as a minor subdivision.

MINOR SUBDIVISION -- Any subdivision into two, three or four lots, plots or sites, each fronting on an existing public road, not involving any new street or the extension of municipal facilities, and not adversely affecting the development of the parcel or of adjoining properties. If all of the lots in a proposed minor subdivision do not front on a public road, or if driveways to a public road can not be arranged the road specification will be determined by the Highway Superintendent in conjunction the Town of Grafton Roadway Guidelines and Construction Specification that is adopted and amended by Town Board resolution..

PLANNING BOARD -- The Planning Board of the Town of Grafton, New York.

PRELIMINARY PLAT -- A drawing or drawings clearly marked "preliminary plat," showing the layout of a proposed subdivision as specified in § 204-3 of these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form, and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

ROAD -- Includes roads, streets, avenues, lanes and other ways.

ROAD PAVEMENT -- The wearing or exposed surface of the roadway used by vehicular traffic.

ROADWAY GUIDELINES AND CONSTRUCTION SPECIFICATIONS -- Road specifications established and amended in a separate text by the Grafton Town Board.

ROAD WIDTH -- The distance between property lines.

SECONDARY ROAD -- A road which serves or is designed to serve as a route connecting different parts of the town, and is so designated on the Town Development Plan.

SKETCH PLAN -- A sketch of a proposed subdivision showing a generalized layout of the property to be subdivided and including its relationship to physical features such as topography, adjacent roads and highways and developed areas.

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

SUBDIVISION -- The division of any parcel of land into two or more lots, plots or sites, or other division of land, for the purpose, whether immediate or future, of sale or lease or building development, and shall include resubdivision. The Planning Board may modify this definition in any individual case where, in the Board's judgment, such modification is in the public interest or will avoid the imposition of unnecessary individual hardship.

SUBDIVISION DATE -- The date when a subdivision plat shall be considered submitted to the Planning Board, as provided in § 276 of Town Law, and is hereby defined to be the

date at which all required surveys, plans and data described in § 204-4 herein are submitted to the Chairman of the Planning Board.

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

ZONING ORDINANCE -- The officially adopted Zoning Ordinance of the Town of Grafton, together with any and all amendments thereto.

§ 204-3. Procedure.

Whenever any subdivision of land, as herein before defined, is proposed to be made, the subdividing owner thereof, or his agent, shall apply in writing to the Planning Board for the approval of such subdivision. There shall first be filed with the Planning Board a preliminary plat of the entire property for approval of such subdivision, and subsequently thereto a final plat, as hereinafter specified.

A. Preapplication procedure. Prior to the filing of an application for approval of a preliminary plat, the subdivider, his agent or engineer may appear and submit general site information and data regarding existing conditions, a location map and a sketch plan with a request for informal consideration by the Planning Board and for an expression of its views. No formal application is thereby required. The purpose of such appearance and submission of information and data is primarily to afford the subdivider an opportunity to consult informally and at an early stage with the Planning Board with the view toward conserving the time and expense of the subdivider and creating mutual opportunities of the parties for the achievement of a desirable subdivision in the public interest.

B. Approval of minor subdivision. The Planning Board may waive parts or all of the steps required for approval which are described in the following sections.

C. Approval of certain major subdivisions. For subdivisions in which all parcels are five acres or larger, and in which all parcels have adequate frontage on a public road, the Planning Board may waive the requirement of § 204-5, Final plat approval.

§ 204-4. Preliminary plat approval.

A. On reaching conclusions regarding the general program and objective following the preapplication appearance(s), if any, the subdivider shall cause to be prepared a preliminary plat, together with the following supplementary or supporting materials:

- (1) Topographic data using a minimum of five-foot contours on the tract and existing drainage ways.
- (2) Tract boundary lines, tract area and street layout.
- (3) Right-of-way width of each street or other right-of-way.
- (4) Utilities on and adjacent to the tract.
- (5) Location, dimensions and purpose of any easements.
- (6) Purpose for which sites, other than residential lots, are dedicated or reserved.
- (7) Names of owners of record of adjoining lots.
- (8) Site data, including number of residential lots, typical lot size, linear feet of streets, acres in parks, etc.

(9) Evidence that a site suitable for construction of a waste disposal system which meets the standards of the Rensselaer County Health Department can be constructed on each lot.

(10) Title, scale, North arrow and date.

B. Five copies of the preliminary plat and supplementary materials so required shall be submitted to the Chairman of the Planning Board with written application for approval not less than 14 days prior to a regularly scheduled meeting.

C. The applicant shall then be prepared to attend the next regular meeting of the Planning Board to discuss the preliminary plat.

D. Hearings and decision.

(1) The time within which the Planning Board shall hold a public hearing on a preliminary plat shall be coordinated with any hearings scheduled under the State Environmental Quality Review Act. Within 62 days after the receipt of a complete preliminary plat by the Chairman of the Planning Board, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing shall be held after the filing of a notice of completion under Town Law § 276, Subdivision 5, if an environmental impact statement is required.

(2) Within 62 days after the date of such hearing, the Planning Board shall approve with or without modification or disapprove such preliminary plat, and the grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. The time in which the Planning Board must act shall be automatically extended until the State Environmental Quality Review process has been completed. When so approving a preliminary plat, the Planning Board shall state, in writing, modifications, if any, as it deems necessary for submission of the plat in final form. Within five days of the approval of such preliminary plat it shall be certified by the Chairman of the Planning Board as granted preliminary approval and a copy filed in his office, a certified copy mailed to the owner and a copy forwarded to the Town Board. Failure of the Planning Board to act within such sixty-two-day period shall constitute approval of the preliminary plat.

(3) When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to:

(a) The modifications to the preliminary plat.

(b) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety and general welfare.

(c) The amount of improvement or the amount of all bonds therefore which it will require as a prerequisite to the approval of the subdivision plat. Approval of a preliminary plat shall not constitute approval of the subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the

preparation of the subdivision plat, which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations. Prior to the approval of the subdivision plat, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.

§ 204-5. Final plat approval.

A. Revocation of approval of preliminary plat. Within six months of the approval of the preliminary plat the owner must submit the plat in final form. If the final plat is not submitted within six months, approval of the preliminary plat may be revoked by the Planning Board.

B. The final plat shall conform substantially to the preliminary plat as approved. If desired by the subdivider, the final plat may constitute only that portion of the approved preliminary plat which he proposes to record and develop at that time; provided, however, that such portion conforms to all requirements of these regulations.

C. Water and sewer facility proposals contained in the final plat shall be properly endorsed and approved by the Rensselaer County Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the subdivider with all necessary town, county and state agencies. Endorsement and approval by the County Health Department shall be secured by the subdivider before official submission of the final plat.

D. Applications for approval of the final plat and other material required for approval shall be submitted to the Planning Board by filing the plat and such other material with the Chairman of the Planning Board at least 14 days prior to the regular monthly meeting, in order that a public hearing may be scheduled.

E. Within 62 days of the submission of a plat in final form for approval, a hearing shall be held by the Planning Board. This hearing shall be advertised at least once in a newspaper of general circulation in the town at least five days before such hearing; provided, however, that when the Planning Board deems the final plat to be in substantial agreement with a preliminary plat approved under this section, and modified in accordance with the requirements of such approval if such preliminary plat has been approved with modification, the Planning Board may waive the requirement for such public hearing.

F. The Planning Board shall by resolution conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of the plat within 62 days of its receipt by the Chairman of the Planning Board if no hearing is held, or in the event that a hearing is held, within 62 days after the date of such hearing. This time may be extended by mutual consent of the subdivider and the Planning Board. Failure to take action on a final plat within the time prescribed therefore shall be deemed approval of the plat.

(1) Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plat shall be certified by the Chairman of the Planning Board as conditionally approved and a copy

mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such requirements, the plat shall be signed by a duly authorized officer of the Planning Board.

(2) Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

G. The subdivider will be required to tender offers of cession in form approved as satisfactory by the Town Attorney of all drains, surface drains, water lines and all land included in streets, parks or other public areas not specifically reserved as shown on the final plat, but approval of the final plat shall not constitute acceptance by the Town Board of the dedication of such facilities without formal acceptance by the Town Board.

§ 204-6. Subdivision filing fees. [Amended 12-9-1999 by L.L. No. 1-1999]

A filing fee as set from time to time by resolution of the Town Board shall be paid to the Town Clerk for credit to the account of the Planning Board in the general fund when the final plat is filed with the Planning Board for approval.

§ 204-7. Plat data.

A. Required data. The final plat shall be drawn at a scale of 100 feet to one inch or larger and shall be either 17 inches by 22 inches or 22 inches by 34 inches in size. The engineer employed by the developer for design and supervision in the building of any new road will be required to give satisfactory proof that the requirements of these subdivision regulations have been fulfilled. The following information shall appear on or be submitted with the final plat.

- (1) Topographic data on the tract.
- (2) Tract boundary lines with bearings and distances, tract area, right-of-way lines and widths of streets, easements and other rights-of-way and property lines of residential lots and other sites; with accurate dimension, bearings or deflection angles, radii and central angle of curves.
- (3) Utilities on and adjacent to the tract, locations, size and invert elevation of storm sewers, electric and telephone poles and waste disposal system, if any.
- (4) Number to identify each lot and letter to identify each block.
- (5) Purpose for which sites, other than residential lots, are dedicated or reserved.
- (6) Minimum setback line on all lots and other sites.
- (7) Names of owners of record of adjoining lots.
- (8) Location and description of monuments.
- (9) Certification by surveyor or engineer as to accuracy of survey.
- (10) Certification of title showing that applicant is the land owner.
- (11) Statement by owner as to dedicating street and any sites for public use.
- (12) Site data, including quantity of residential lots, lot sizes, linear feet of streets, acres in parks, etc.

- (13) Title, scale, North arrow and date.
 (14) Cross sections and profiles of streets showing approved grades.
 (15) Two endorsement blocks: one for the use of the Rensselaer County Department of Health and one for the endorsement of the Grafton Planning Board. The Planning Board block shall be prepared by the subdivider as follows:
 Approved by resolution of the Planning Board of the Town of Grafton, New York, on the ____ day of _____, 20____, subject to all requirements and conditions of said resolution.

 Authorized Planning Board Signature

Note:

The developer is obliged to furnish each purchaser with a legible reproduction of the approval plan.

There shall be no changes, erasures or modifications of these plans by the developer or purchasers without prior approval by the Grafton Planning Board.

B. Legal certifications.

- (1) Certifying that the required improvements have been completed or bond or other security satisfactory in form and sufficiency to the Town Board has been posted in lieu thereof to assure satisfactory compliance with the provisions of § 277 of the Town Law.
 (2) Certifying that the applicant or subdivider is the land owner.
 (3) Approving as to legal sufficiency all offers of cession for dedicating streets, easements, rights-of-way and any sites for public uses and agreements covering the conditions and maintenance of unseeded public open spaces.

C. Other data. Such other certificates, affidavits or other agreements as may be required by the Planning Board in the enforcement of these regulations.

§ 204-8. Design standards.

A. Roads.

- (1) The arrangements, character, extent, width, grade and location of all roads shall conform as prescribed in the road specifications established and amended in a separate text by the Grafton Town Board. and shall be considered in their relation to existing roads, to topographical conditions, to public convenience and safety and to the proposed uses of the land to be served by such roads.
 (2) The arrangement of roads in a subdivision shall either:
 (a) Provide for continuation, if appropriate, of roads in the surrounding area; or
 (b) Conform to a plan for the neighborhood approved by the Planning Board to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.
 (3) Extensions to existing town roads and all new roads shall be constructed as prescribed in the road specifications established and amended in a separate text by the Grafton Town Board.

(4) In instances where owner/applicant begins construction of a road without a permit on any work where a permit is required the owner/applicant may be subject to a fine in the amount of **\$250.00** per offense as determined by the Superintendent of Highways and the Code Enforcement Officer. For each day the offense is continued without a permit a fine of **\$100.00** per day can be assigned to the owner/applicant by the town board. In the event that work takes place without a permit all work shall be stopped at once until the matter is resolved by the owner and his engineer to the satisfaction of the Highway Superintendent, the Code Enforcement Officer, and the Town Engineer.

B. Easements.

- (1) Adequate easements centered on rear or side lot lines shall be provided for utilities where necessary. A minimum easement width of 15 feet is required.
- (2) Where a subdivision is traversed by a stream, watercourse, channel or drainage way, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the watercourse, and such further width or construction, or both, as will be adequate for the purpose and as determined by the Town Board.

C. Lots.

(1) In general it is presumed that parcels which result from subdivision are intended to be used for residential construction. They should have reasonable frontage for access to a road, with due regard to the nature and topography of the lots and the road. They should have a size and shape adequate for a residence, including water supply and waste disposal.

(a) "Reasonable frontage" will be interpreted to mean an adequate distance from neared driveways, road visibility and slope at the roadside. "Adequate size and shape" indicates that lots should meet the Rensselaer County Health Department's criteria for water and waste facilities, and should not be of such shape as to make residential use difficult.

- (2) All lots shall have area and width equal to minimum requirements of the zoning regulations (as they are adopted) applying to the district in which they are located.
- (3) Every road shown on the plat that is hereafter filed or recorded in the office of the County Clerk shall be deemed to be a private road until such times as it has been formally offered for cession to the public and formally accepted as a public road by resolution of the Town Board; or, alternatively, until it has been condemned by the municipality for use as a public road.
- (4) Off-road parking space shall be required for all uses.

D. Grading and drainage. All topsoil shall be removed from an area to conform with the width of the driving lane or lanes unless a fill of 3 feet or more is required. The Town Highway Superintendent shall inspect and approve the subgrade before any fill is placed. Fills must be made with material approved by the Town Highway Superintendent and shall be placed in layers not over six inches deep, and each layer shall be properly

mulled. All muck, quicksand, spongy material and any other objectionable material shall be removed.

E. Public sites and open spaces. Where a proposed park, playground, school or other public use shown on the Master Plan is located in whole or in part in a subdivision, or upon consideration of the particular type of development proposed in the subdivision, the Planning Board may require such areas, the limits of which may be 10% of the plot to be dedicated to the proper public agency or reserved to acquisition by such agency within a specified period of time.

§ 204-9. Required improvements.

A. General. Prior to or not later than 90 days after the granting of final approval, the subdivider shall have installed or shall have furnished adequate bond or other security for the installation within a specified time of the required improvements listed and described in this section. All of the required improvements shall be made in full compliance with the specifications for each of the various units of work, as required by the municipality, or the state and county health authorities, according to the nature of the improvements.

B. Monuments. The tract boundary lines and the lines of all streets shall be monumentalized with concrete, stone or iron monuments with monument caps. Individual properties shall be monumentalized with iron pins or pipe.

C. Road improvements shall be constructed as prescribed in the road specifications established and amended in a separate text by the Grafton Town Board..

D. Water supply. Water supply systems must conform to standards of and inspection by the Rensselaer County Department of Health.

E. Utilities.

(1) Electrical service and other available utilities shall be provided by the developer within each subdivision prior to acceptance of the gravel base and surface course by the Town Highway Superintendent. No cuts shall be made in the gravel thereafter without permission from the Town Board, and, whenever such permission is given, the developer shall restore the surface of the road to its previous condition to the satisfaction of the Superintendent of Highways.

(2) The Planning Board encourages underground utilities whenever practical and feasible.

§ 204-10. Severability.

The provisions of this ordinance (local law) are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this ordinance.

§ 204-11. Effective date.

This local law shall become effective upon the filing with the New York State Secretary of State.

§204-12 – Penalties for Violations (1)**§ 204-12 (a). Intent:**

It is the intent of the Town to regulate the use of land within its borders and to provide penalties and enforcement mechanisms for the actions of either applicants or subsequent owners, or their agents, which violate the terms and conditions and restrictions contained in subdivision approvals granted by the Town Planning Board in the course of approving a subdivision. The ability to impose such conditions on the use of land through the land use process is needless without the ability to enforce these conditions even against subsequent purchasers as provided by New York Law. This Local Law intends to prevent, among other things, the clear cutting of land which is specifically prohibited in buffer areas by the approved subdivision maps and other restrictions imposed as a grant of subdivision approval.

§204-12(b). Inspection and Enforcement:

The Building Inspector shall be responsible for the overall inspection and enforcement of all terms and conditions contained in approved subdivision maps approved by the Town Planning Board and filed in Rensselaer County. The failure of the initial applicant for subdivision approval or subsequent owners, or agents of said owners, to conform to the terms and conditions of the subdivision approval granted by the Grafton Planning Board as contained in the final stamped plat shall be deemed a violation of town code and declared to be an offense punishable by fines not exceeding the amount set forth in Town Law Section 268.

1. Criminal Offense

A violation of this Local law is hereby declared to be an offense punishable by a fine not exceeding \$350 or imprisonment not to exceed six (6) months, or both for the conviction of a first offense; for a conviction of a second offense of which were committed within a period of five (5) years, upon shall be a fine not less than \$350 and no more than \$700 or imprisonment not to exceed six (6) months, or both, and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate additional violation.

(1) Editor's Note: Section Added by L.L. 1 of 2009, Adopted by the Grafton Town Board on April 16, 2009

2. Civil Penalties

In addition to criminal offense, any person violating this chapter shall be subject to civil penalties in the sum of \$350 for each week which the violation continues plus all costs incurred by the Town and any cost or restoration of the property to conform to the terms and conditions of subdivision approval. In addition, the Town has the right to bring actions to compel compliance with and to abate the violations pursuant to Town Law Section 268 and as otherwise provided by law.



Chapter 209
TAXATION

ARTICLE I

Senior Citizens Exemption

§209-1. Exemption granted.

§209-2. Maximum income level

ARTICLE II

Alternative Veterans Exemption

§209-3. Purpose.

§209-4. Exemption established.

§209-5. Exemption for veterans who served in combat zone.

§209-6. Exemption for veterans with a service connected disability.

§209-6.1. Exemption of a Gold Star Parent.

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ARTICLE III

Disabled Homeowners Exemption

§209-8. Purpose.

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§209-11. Definitions.

§209-12. Required Proof

§209-13. Computation of exemption.

§209-14. Real property held in trust.

§209-15. Cooperative apartment ownership.

§209-16. Restriction on granting exemption.

§209-17. Application.

§209-18. Effective date; applicability

ARTICLE IV

Cold War Veteran Tax Exemption

§209-19. Purpose.

§209-20. Effective Date.

[HISTORY: Adopted by the Town Board of the Town of Grafton as indicated in article histories.]
(Section 209.19 & 209.20 added by L.L. No. 3 of 2008 Adopted by the Grafton Town Board on Nov. 13, 2008)

General References

Assessors and Board of Assessment Review – See Ch. 5

ARTICLE I

Senior Citizens Exemption

[Adopted 2-10-1992 by L.L. No. 1-1992]¹

[Amended 2-8-2001 by L.L. No. 1-2001]

§ 209-1. Exemption granted.

A partial exemption from taxation to the extent of 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or older meeting the requirements set forth in § 467 of the Real Property Tax Law is hereby granted.

¹ Editor's Note: Amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 209-2. Maximum income level.

The maximum income level for the 50% exemption will be established separately by Town Board resolution.

ARTICLE II**Alternative Veterans Exemption**

[Adopted 5-12-1997 by L.L. No. 1-1997]

[Amended 2-8-2001 by L.L. No. 2-2001]

§ 209-3. Purpose.

A. The purpose of this article is to adopt the maximum tax exemption for alternative veterans as authorized by Chapter 477 of the Laws of New York for 1996.

B. Chapter 477 of the Laws of New York for 1996 amended subparagraph (ii) of paragraph (d) of Subdivision 2 of § 458-a of the New York State Real Property Tax Law allowing the Town of Grafton to adopt a local law to increase the maximum exemption allowed under this section.

§ 209-4. Exemption established.

Qualifying residential real property shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed \$18,000 or the product of \$18,000 multiplied by the latest state equalization rate for the respective assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less.

§ 209-5. Exemption for veterans who served in combat zone.

A. In addition to the exemption provided in § 209-4 of this article, where the veteran served in a combat theater or combat zone of operations; as documented by the award of a United States campaign ribbon or service medal, qualifying residential real property also shall be exempt from taxation to the extent of 10% of the assessed value of such property; provided, however, that such exemption shall not exceed \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate for the respective assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less.

B. It is additionally provided that any subsequent modification of the Real Property Tax Law § 458 providing for greater tax exemption shall, upon the effective date thereof, also be deemed contemporaneously applicable to the Town of Grafton so as to afford the Town of Grafton's eligible veterans the greatest available tax exemption and/or income limitations then provided or permitted by said statute.

§ 209-6. Exemption for veterans with a service connected disability.

In addition to the exemptions provided by § 209-5 of this article, where the veteran received a compensation rating from the United States Veteran's Administration or from the United States Department of Defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the veterans disability rating; provided, however, that such exemption shall not exceed \$60,000 or the product of \$60,000 multiplied by the latest state equalization rate for the respective assessing unit, or in the case of a special assessing unit, the latest class ratio, whichever is less. For the purpose of this section, where a person who served in the active military, naval or air service during a period of war died in service of a service connected disability, such person shall be deemed to have been assigned a compensation rating of 100%.

§ 209-6-1. Exemption for a Gold Star Parent.

- A. In addition to exemptions provide by §209-6 of this article, property owned by a Gold Star Parent is included within the definition of "qualifying residential real property" as provided in paragraph (D) of subdivision (1) of section 458-a of the New York State Rreal Property Tax Law.
- B. A Gold Star Parent shall mean the parent of a child who died in the line of duty while serving in the United States Armed Forces during a period of war.
- C. An otherwise qualified Gold Star Parent will be eligible to receive the veterans alternative exemption, provided that the exemption shall only be applied to the primary residence of the Gold Star Parent.

§ 209-7. When effective; applicability.

This article shall take effect upon filing with the Secretary of the State and the Comptroller of the State of New York and shall be applicable to the assessment rolls finalized in 1997 and thereafter.

ARTICLE III

Disabled Homeowner Exemption
[Adopted 2-9-1998 by L.L. No. 1-1998]
[Amended 2-8-2001 by L.L. No. 3-2001]

§ 209-8. Purpose.

The purpose of this article is to adopt the partial tax exemption of real property owned by persons with limited incomes who are disabled in accordance with the provisions of Real Property Tax Law § 459-c.

§ 209-9. Short title.

This article shall be known as the "Town of Grafton Disabled Homeowner Tax Exemption Law."

§ 209-10. Persons with disabilities and limited incomes.

Effective as hereinafter provided, there shall be an exemption from taxation for general county purposes to the extent of the percentage of assessed evaluation provided in A Town Board approved, determined by the maximum income exemption eligibility level also provided in the schedule up to a maximum of 50% of the assessed valuation of real property owned by one or more persons with disabilities, at least one of whom has a disability, and whose income is limited by reason of such disability. The maximum income level for the exemption will be established periodically by Town Board resolution.

§ 209-11. Definitions.

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

PERSON WITH A DISABILITY -- One who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who:

- A. Is certified to receive Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) benefits under the Federal Social Security Act; or
- B. Is certified to receive Railroad Retirement Disability benefits under the Federal Railroad Retirement Act; or
- C. Had received a certification from the State Commission for the Blind and Visually Handicapped stating that such person is legally blind; or

D. Is certified to receive United States Postal Service Disability benefits under the United States Postal Service Disability Act.

SIBLING -- A brother or a sister, whether related through half blood, whole blood or adoption.

§ 209-12. Required proof.

An award letter from the Social Security Administration or the Railroad Retirement Board or a certification from the State Commission for the Blind and Visually Handicapped or the United States Postal Service shall be submitted as proof of disability.

§ 209-13. Computation of exemption.

Any exemption provided by this article shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed; provided, however, that no parcel may receive an exemption for the same tax purpose pursuant to both this article and § 467 of the Real Property Tax Law.

§ 209-14. Real property held in trust.

Notwithstanding any other provisions of law to the contrary, the provisions of this article shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption pursuant to this article.

§ 209-15. Cooperative apartment ownership.

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

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

§ 209-16. Restrictions on granting exemption.

No exemption shall be granted:

A. If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sums authorized by the provisions of § 459-c of the Real Property Tax Law. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or wife, their combined income may not exceed such sum, except where the husband or wife, or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Where title is vested in siblings, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings and net income from self-employment; but shall not include a return of capital, gifts, inheritances or moneys earned through employment in the foster grandparent program; and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid by insurance. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion or wear and tear of real or personal property held for the production of income.

B. Unless the property is used exclusively for residential purposes, however, that in the event any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this article.

C. Unless the real property is the legal residence and is occupied, in whole or in part, by the disabled person; except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in § 2801 of the Public Health Law, provided that any income accruing to that person shall be considered income for purposes of this article only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

§ 209-17. Application.

A. Application for such exemption must be made annually by the owner, or all of the owners of the property, on forms prescribed by the State Board to be furnished by the appropriate local assessing unit, and shall furnish the information and be executed in the manner required or prescribed on such forms, and shall be filed in such Assessor's Office on or before the appropriate taxable status date; provided however, proof of a permanent disability need be submitted only in the year an exemption pursuant to this article is first sought or the disability is first determined to be permanent.

B. At least 60 days prior to the appropriate taxable status date, the appropriate local assessing unit shall mail to each person who was granted an exemption pursuant to this article on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to continue to be granted. Failure to mail such application form or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

§ 209-18. Effective date; applicability.

This article shall take effect immediately and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on and after January 1, 1998.

§209-19 – Cold War Veteran Exemption (1)

Section 1: It is the intent of this local law to: 1) Authorize a limited exemption from real property taxes for residential real property owned by veterans and who rendered military service to the United States during the “Cold War” and their surviving spouses pursuant to Section 458 b of the Real Property Tax Law; and 2) to establish a maximum exemption amounts thereunder.

Section 2: Definitions: As used in this section:

- (a) “Cold War Veteran” means a person, male or female, who served on active duty in the United States armed forces, during the time period from September 2, 1945 to December 26, 1991, and was discharged or released therefrom under honorable conditions.
- (b) “Armed Forces” means the United States Army, Navy, Marine Corps, Air Force and Coast Guard.
- (c) “Active Duty” means full-time duty in the United States armed forces, other than active duty for training.
- (d) “Service Connected” means, with respect to disability or death, that such disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty on active military, naval or air service.
- (e) “Qualified Owner” means a Cold War veteran, the spouse of a Cold War veteran, or the un-remarried surviving spouse of a deceased Cold War veteran. Where property is owned by more than one qualified owner, the exemption to which each is entitled may be combined. Where a veteran is also the un-remarried surviving spouse of a veteran, such person may also receive any exemption to which the deceased spouse was entitled.
- (f) “Qualified Residential Real Property” means property owned by a qualified owner which is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not used exclusively for residential purposes, but is used for other purposes, such portion shall be subject to taxation and only the remaining portion used exclusively for residential purposes shall be subject to the exemption provided by this section. Such property shall be the primary residence of the Cold War veteran or the un-remarried surviving spouse of a Cold War veteran, unless the Cold War veteran or un-remarried surviving spouse is absent from the property due to medical reasons or institutionalization.
- (g) “Latest State Equalization Rate” means the latest final equalization rate established by the state board pursuant to Article 12 of this chapter.
- (h) “Latest Class Ratio” means the latest final class ratio established by the state board pursuant to Title 1 of Article 12 of this chapter for use in a special assessing unit as defined in Section 1801 of this Chapter.

(1) Section 209.19 & 209.20 added by L.L. No. 3 of 2008 Adopted by the Grafton Town Board on Nov. 13, 2008

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NEW YORK 12207

(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 a new matter.

Town of Grafton

Local Law No.1 of the year 2016

A local law to override the tax levy limit established in General Municipal Law §3-c Section 1. Legislative Intent

Be it enacted by the Town Board of the Town of Grafton as follows:

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the **Town of Grafton**, County of Renssealer (herein after Town) pursuant to General Municipal Law §3-c, and to allow the **Town**, to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed by the town board for the fiscal year **2017** that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

The Town is dependent upon the real property tax to fund town services and it does not have the authority to raise sales taxes, occupancy taxes, gross receipts taxes, or income taxes. Non property tax revenues, sales taxes and State AIM payments are subject to market fluctuations and the ability of federal, state, and county governments to share revenue with the **Town**. The cost to provide town services and to fund town operations continues to increase for 2017. Specific line items with significant increases are:

Heath Insurance Coverage for full-time employees

Workman Compensation Insurance

ERS-Pension Contribution

Utilities

Fuel oil, propane, gasoline and diesel fuel

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by vote of sixty percent (60%) of the town board.

Section 3. Tax Levy Limit Override

The Town Board of the Town is hereby authorized to adopt a budget for the fiscal year 2017 that requires a real property tax levy in excess of the limit specified in General Municipal Law, §3-c.

Section 4. Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date This local law shall take effect immediately upon filing with the Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.



I hereby certify that the local law annexed hereto, designated as Local Law 1 of 2016 of the Town of Grafton was duly passed by the Grafton Town Board on the 17 day of November, 2016, in accordance with the application provisions of the law.

Victoria E Buclid
Town Clerk of the Town of Grafton

(seal)

Date: Nov 17, 2016



§209-19 – Cold War Veteran Exemption (1)**Section 3: Exemption**

- (a) A qualifying residential real property shall be exempt from taxation to the extent of 10% of the assessed value of such property; provided however, that such exemption shall not exceed \$8,000.00 or the product of \$8,000 multiplied by the latest state equalization rate of the assessing unit.
- (b) In addition to the exemption provided by paragraph (a) of this Section 3, where the Cold War Veteran received a compensation rating from the United States veterans affairs or from the United States department of defense because of a service connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by 50% of the Cold War Veteran disability rating; provided, however, that such exemption shall not exceed \$40,000.00, or the product of \$40,000.00 multiplied by the latest state equalization rate for the assessing unit, or, in the case of a special assessing unit, the latest class ration, whichever is less.
- (c) Limitations.
 - (I) The exemption from taxation provided by this subdivision shall be applicable to town taxes only and not from applicable school taxes.
 - (II) If a Cold War Veteran receives the exemption under Section 458 or 458(a) of this title, the Cold War Veteran shall not be eligible to receive the exemption under this section.

The exemption provided by Paragraph (a) of this section shall be granted for a period of 10 years. The commencement of such 10 year period shall be governed pursuant to this section. Where a qualified owner owns qualifying residential real property on the effective date of this Local Law, such 10 year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring on or after the effective date of this local law. Where a qualified owner does not own qualifying residential real property on the effective date of this Local Law, such 10 year period shall be measured from the assessment roll prepared pursuant to the first taxable status date occurring at least 60 days after the date of purchase of qualifying residential real property; provided, however, that should the veteran apply for and be granted an exemption on the assessment roll prepared pursuant to a taxable status date occurring within 60 days after the date of purchase or residential real property, such 10 year period shall be measured from the first assessment roll in which the exemption occurs. If, before the expiration of such 10 year period, such exempt property is sold and replaced with other residential real property, such exemption may be granted pursuant to this local law for the unexpired portion of the 10 year exemption period.

- (1) Section 209.19 & 209.20 added by L.L. No. 3 of 2008 Adopted by the Grafton Town Board on Nov. 13, 2008

§209-19 – Cold War Veteran Exemption (1)
(III)

Section 4: Application Process: Application for exemption shall be made by the owner, or all of the owners, of the property on a form prescribed by the state board. The owner or owners shall file the completed form in the assessor's office on or before the first appropriate taxable status date. The exemption shall continue in full force and effect for all appropriate subsequent tax years and the owner or owners of the property shall not be required to re-file each year. Applicants shall be required to re-file on or before the appropriate taxable status date if the percentage of disability percentage increases or decreases or may re-file if other changes have occurred which affect qualification for an increase or decrease amount of exemption. Any applicant convicted of willfully making any false statement in this application for such exemption shall be subject to the penalties prescribed in the penal law.

§209-20 – Effective Date (1)

Section 5: Effective Date: This Local Law shall take effect on March 1, 2008 for the 2010 tax rolls.

(1) Section 209.19 & 209.20 added by L.L. No. 3 of 2008 Adopted by the Grafton Town Board on Nov. 13, 2008

Chapter 213

TELECOMMUNICATIONS FACILITIES

- § 213-1. Purpose and legislative intent.
- § 213-2. Title.
- § 213-3. Severability.
- § 213-4. Definitions.
- § 213-5. Policy and goals for special use permits for wireless telecommunications facilities.
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- § 213-10. Visibility of wireless telecommunications facilities.
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- § 213-12. Signage.
- § 213-13. Lot size and setbacks.
- § 213-14. Retention of expert assistance and reimbursement by applicant.
- § 213-15. Exceptions from a special use permit for wireless telecommunications facilities.
- § 213-16. Public hearing required.
- § 213-17. Action on an application for a special use permit.
- § 213-18. Recertification of special use permit.
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- § 213-20. Application fee.
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- § 213-22. Reservation of authority to inspect wireless telecommunications facilities.
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- § 213-24. Liability insurance.
- § 213-25. Indemnification.
- § 213-26. Penalties for offenses.
- § 213-27. Default and/or revocation of special use permit.
- § 213-28. Removal of wireless telecommunications facilities.
- § 213-29. Relief/exemption from regulations.
- § 213-30. Periodic regulatory review by Town Board.
- § 213-31. Adherence to state and/or federal rules and regulations.
- § 213-32. Conflict with other laws.
- § 213-33. Authority.

[HISTORY: Adopted by the Town Board of the Town of Grafton 11-23-1998 by L.L. No. 10-1998. Amendments noted where applicable.]

§ 213-1. Purpose and legislative intent.

The Telecommunications Act of 1996 affirmed the Town of Grafton's authority concerning the placement, construction and modification of wireless telecommunications facilities. The Town Board of the Town of Grafton finds that wireless telecommunications facilities may pose a

unique hazard to the health, safety, public welfare and environment of the Town of Grafton and its inhabitants. In order to ensure that the placement, construction or modification of wireless telecommunications facilities is consistent with the town's land use policies, the town is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this chapter is to minimize the negative impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Town of Grafton.

§ 213-2. Title.

This chapter may be known and cited as the "Wireless Telecommunications Facilities Siting Law for the Town of Grafton."

§ 213-3. Severability.

- A. If any word, phrase, sentence, part, section, subsection or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.
- B. Any special use permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect by a competent authority, or is overturned by a competent authority, the permit shall be voidable, upon determination by the Town Board.

§ 213-4. Definitions.

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural number include words in the singular number and words in the singular number include the plural number. The word "shall" is always mandatory, and not merely directory.

ACCESSORY FACILITY OR STRUCTURE — An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to utility or transmission equipment storage sheds or cabinets.

ANTENNA — A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to, radio, television, cellular, paging, personal telecommunications services (PCS) and microwave telecommunications.

APPLICANT — Includes any individual, corporation, estate, trust partnership, joint-stock company, association of two or more persons, limited liability company or entity submitting an application to the Town of Grafton for a special use permit for wireless telecommunications facilities.

APPLICATION — The form approved by the Board, together with all necessary and appropriate documentation that an applicant submits in order to receive a special use permit for wireless telecommunications facilities.

BOARD — The Planning Board of the Town of Grafton.

COLLOCATION — The use of the same telecommunications tower or structure to carry two or more antennae for the provision of wireless services by two or more persons or entities.

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE — Shall have the meaning in this chapter and any special use permit granted hereunder as is defined and applied under the New York Uniform Commercial Code (UCC).

COMPLETED APPLICATION — An application that contains all information and/or data necessary to enable the Board to evaluate the merits of the application, and to make an informed decision with respect to the effect and impact of wireless telecommunications facilities on the town in the context of the permitted land use for the particular location requested.

DIRECT-TO-HOME SATELLITE SERVICES or DIRECT BROADCAST SERVICE or DBS — Only programming transmitted or broadcast by satellite directly to subscribers' premises without the use of ground receiving equipment, except at the subscribers' premises or in the uplink process to the satellite.

EAF — The Environmental Assessment Form approved by the New York Department of Environmental Conservation.

EPA — State and/or Federal Environmental Protection Agency or its duly assigned successor agency.

FAA — The Federal Aviation Administration, or its duly designated and authorized successor agency.

FCC — The Federal Communications Commission, or its duly designated and authorized successor agency.

FREESTANDING TOWER — A tower that is not supported by guy wires and ground anchors or other means of attached or external support.

HEIGHT — When referring to a tower or structure, the distance measured from the preexisting grade level to the highest point on the tower or structure, even if said highest point is an antenna.

NIER — Nonionizing electromagnetic radiation.

PERSON — Any individual, corporation, estate, trust, partnership, joint-stock company, association of two or more persons having a joint common interest or a governmental entity.

PERSONAL WIRELESS FACILITY — See definition for “wireless telecommunications facilities.”

PERSONAL WIRELESS SERVICES or **PWS** or **PERSONAL TELECOMMUNICATIONS SERVICE** or **PCS** — The same meaning as defined and used in the 1996 Telecommunications Act.

SPECIAL USE PERMIT — The official document or permit by which an applicant is allowed to construct and use wireless telecommunications facilities as granted or issued by the town.

STATE — The State of New York.

TELECOMMUNICATIONS — The transmission and reception of audio, video, data and other information by wire, radio frequency, light and other electronic or electromagnetic systems.

TELECOMMUNICATION SITE — See definition for “wireless telecommunications facilities.”

TELECOMMUNICATIONS STRUCTURE — A structure used in the provision of services described in the definition of “wireless telecommunications facilities.”

TEMPORARY — In relation to all aspects and components of this chapter, something intended to, or that does, exist for fewer than 90 days.

TOWN — The Town of Grafton, New York.

WIRELESS TELECOMMUNICATIONS FACILITIES or **TELECOMMUNICATIONS TOWER** or **TELECOMMUNICATIONS SITE** or **PERSONAL WIRELESS FACILITY** — A structure or location designed, or intended to be used, or used to support antennas. It includes, without limit, freestanding towers, guyed towers, monopoles and similar structures that employ camouflage technology, including but not limited to structures such as a multistory building, church steeple, silo, water tower, sign or other similar structures intended to mitigate the visual impact of an antenna or the functional equivalent of such. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, personal telecommunications services or microwave telecommunications, but excluding those used exclusively for fire, police and other dispatch telecommunications, or exclusively for private radio and television reception and private citizen’s bands, amateur radio and other similar telecommunications.

§ 213-5. Policy and goals for special use permits for wireless telecommunications facilities.

In order to ensure that the placement, construction and modification of wireless telecommunications facilities protects the town’s health, safety, public welfare, environmental features and other aspects of the quality of life specifically listed elsewhere in this chapter, the Town Board adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

- A. Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities.
- B. Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent.
- C. Establishing reasonable time frames for granting or not granting a special use permit for wireless telecommunications facilities, or recertifying or not recertifying, or revoking the special use permit granted under this chapter.
- D. Promoting and encouraging, wherever possible, the sharing and/or collocation of wireless telecommunications facilities among service providers.
- E. Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner as to minimize adverse aesthetic impacts to the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities.

§ 213-6. Special use permit application and other requirements.

- A. All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The Board is the officially designated agency or body of the community to whom applications for a special use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities. The Board may at its discretion delegate or designate other official agencies of the town to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.
- B. An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.
- C. Applications not meeting the requirements stated herein or which are otherwise incomplete may be rejected by the Board.
- D. The applicant shall include a statement, in writing:
 - (1) That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the Town Board, in writing, as well as all applicable and permissible local codes, ordinances and

regulations, including any and all applicable county, state and federal laws, rules and regulations.

- (2) That the construction of the wireless telecommunications facilities is legally permissible, including but not limited to the fact that the applicant is authorized to do business in New York State.
- E. No wireless telecommunications facilities shall be installed or constructed until the site plan is reviewed and approved by the Board, and the special use permit has been issued.
- F. All applications for the construction or installation of new wireless telecommunications facilities shall be accompanied by a report containing the information hereinafter set forth. The report shall be signed by a licensed professional engineer registered in the state. Where this section calls for certification, such certification shall be by a qualified New York State licensed professional engineer acceptable to the town, unless otherwise noted. The application shall include, in addition to the other requirements for the special use permit, the following information:
- (1) Documentation that demonstrates the need for the wireless telecommunications facility to provide service within the town.
 - (2) Name, address and phone number of the person preparing the report.
 - (3) Name, address and phone number of the property owner, operator and applicant, to include the legal form of the applicant.
 - (4) Postal address and tax map parcel number of the property.
 - (5) Zoning district or designation in which the property is situated.
 - (6) Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines.
 - (7) Location of nearest residential structure.
 - (8) Location of nearest habitable structure.
 - (9) Location, size and height of all structures on the property which is the subject of the application.
 - (10) Location, size and height of all proposed and existing antennae and all appurtenant structures.
 - (11) Type, size and location of all proposed and existing landscaping, including fencing.
 - (12) The number, type and design of the telecommunications tower(s) and antenna(s) proposed and the basis for the calculations of the telecommunications tower's capacity to accommodate multiple users.
 - (13) The make, model and manufacturer of the tower and antenna(s).
 - (14) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting.

- (15) The frequency, modulation and class of service of radio or other transmitting equipment.
 - (16) Transmission and maximum effective radiated power of the antenna(s).
 - (17) Direction of maximum lobes and associated radiation of the antenna(s).
 - (18) Applicant's proposed tower maintenance and inspection procedures and related system of records.
 - (19) Certification that NIER levels at the proposed site are within the threshold levels adopted by the FCC.
 - (20) Certification that the proposed antenna(s) will not cause interference with existing telecommunications devices, though the certifying engineer need not be approved by the Board.
 - (21) A copy of the FCC license applicable for the use of wireless telecommunications facilities.
 - (22) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site, though the certifying engineer need not be approved by the Board.
 - (23) Propagation studies of the proposed site and all adjoining proposed or in-service or existing sites.
 - (24) Applicant shall disclose, in writing, any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunication tower that it constructs.
- G. In the case of a new telecommunication tower, the applicant shall be required to submit a written report demonstrating its efforts to secure shared use of existing telecommunications tower(s) or use of existing buildings or other structures within the town. Copies of written requests and responses for shared use shall be provided to the Board.
- H. The applicant shall furnish written certification that the telecommunication facility, foundation and attachments are designed and will be constructed ("as-built") to meet all local, county, state and federal structural requirements for loads, including wind and ice loads.
- I. After construction and prior to receiving a certificate of compliance, the applicant shall furnish written certification that the wireless telecommunications facilities are grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.
- J. The applicant shall submit a completed long form EAF and a completed visual EAF addendum. The Board may require submission of a more detailed visual analysis based on the results of the visual EAF addendum. Applicants are encouraged to seek preapplication meetings with the Town Board to address the scope of the required visual assessment.

- K. If requested by the Board, the applicant shall furnish a visual impact assessment which shall include:
- (1) A zone of visibility map, which shall be provided in order to determine locations where the tower may be seen.
 - (2) Pictorial representations of “before and after” views from key viewpoints both inside and outside of the town, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers or residents. The Board, acting in consultation with its consultants or experts, will provide guidance concerning the appropriate key sites at a preapplication meeting.
 - (3) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.
- L. Any and all representations made by the applicant to the Board, on the record, during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Board.
- M. The applicant shall, in a manner approved by the Board, demonstrate and provide, in writing and/or by drawing, how it shall effectively screen from view its proposed wireless telecommunications facilities base and all related facilities and structures.
- N. All utilities from wireless telecommunications facilities sites shall be installed underground and in compliance with all laws, rules and regulations of the town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Town Board may waive or vary the requirements of undergrounding installation of utilities whenever, in the opinion of the Town Board, such variance or waiver shall not be detrimental to the health, safety, general welfare and environment, including the visual and scenic characteristics of the area.
- O. All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to have the least adverse visual effect on the environment and its character, and the residences in the area of the wireless telecommunications facilities sites.
- P. Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings.
- Q. At a telecommunications site, an access road and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation-cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.
- R. A person who holds a special use permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current technical, safety and safety-related codes adopted by the town, county, state or United States, including but

not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsibly workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

- S. A holder of a special use permit granted under this chapter shall obtain, at its own expense, all permits and licenses required by applicable rule, regulation or law, and must maintain the same, in full force and effect, for as long as required by the town or other governmental entity or agency having jurisdiction over the applicant.
- T. With respect to this application process, the Board will normally seek to have lead agency status, pursuant to SEQRA. The Board shall conduct an environmental review of the proposed project in combination with its review of the application under this chapter.
- U. An applicant shall submit to the Town Clerk the number of completed applications determined to be needed at the preapplication meeting. To the extent practical, a copy of the application shall be provided to the legislative body of all adjacent municipalities and to the County Planning Agency.
- V. The applicant shall examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for at least two additional commercial applications, for example, future collocations. The scope of this examination shall be determined by the Board. The telecommunications tower shall be structurally designed to accommodate at least two additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the telecommunications tower is not technologically feasible, or is commercially impracticable and creates an unnecessary and unreasonable burden, based upon:
 - (1) The number of FCC licenses foreseeably available for the area.
 - (2) The kind of wireless telecommunications facilities site and structure proposed.
 - (3) The number of existing and potential licenses without wireless telecommunications facilities spaces/sites.
 - (4) Available space on existing and approved telecommunications towers.
- W. The applicant shall submit to the Board a letter of intent committing the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Board. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter shall commit the new tower owner and his/her successors in interest to:
 - (1) Respond within 60 days to a request for information from a potential shared-use applicant.

- (2) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
 - (3) Allow shared use of the new tower if another telecommunications provider agrees, in writing, to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- X. Unless waived by the Board, there shall be a preapplication meeting. The purpose of the preapplication meeting will be to address issues which will help to expedite the review and permitting process. A preapplication meeting may also include a site visit if required. Where the application is for the shared use of an existing telecommunications tower(s) or other high structure, the applicant should seek to waive any section or subsection of this chapter that may not be required. At the preapplication meeting, the waiver requests, if appropriate, will be decided by the Board. Costs of the town's consultants to prepare for and attend the preapplication meeting will be borne by the applicant.
- Y. The holder of a special use permit shall notify the Town of Grafton of any intended modification of a wireless telecommunication facility and shall apply to the town to modify, relocate or rebuild a wireless telecommunications facility.

§ 213-7. Location of wireless telecommunications facilities.

- A. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, Subsection A(1) being the highest priority and Subsection A(4) being the lowest priority.
- (1) On existing telecommunications towers or other tall structures.
 - (2) Collocation on a site with existing wireless telecommunications facilities or structures.
 - (3) On property in the town, including municipally-owned properties, which will have the least impact on the health, safety and welfare of the community and of adjoining property owners.
 - (4) On other property in the town.
- B. If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
- C. An applicant may not bypass sites of higher priority by stating the site presented is the only site leased or selected. An application shall address collocation as an option and if such option is not proposed, the applicant must explain why collocation is commercially or otherwise impracticable. Agreements between providers limiting or prohibiting collocation shall not be a valid basis for any claim of commercial impracticability or hardship.

- D. Notwithstanding the above, the Board may approve any site located within an area in the above list of priorities, provided that the Board finds that the proposed site is in the best interest of the health, safety and welfare of the town and its inhabitants.
- E. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection. If the site selected is not the highest priority, then a detailed written explanation as to why sites of a higher priority were not selected shall be included with the application.
- F. The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has been, is, or will be considering, reviewing or planning for wireless telecommunications facilities in the town, and all municipalities adjoining the town, for a two-year period following the date of the application.
- G. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Board may disapprove an application for any of the following reasons.
- (1) Conflict with safety and safety-related codes and requirements;
 - (2) Conflict with traffic needs or traffic laws, or definitive plans for changes in traffic flow or traffic laws;
 - (3) Conflict with the historic nature of a neighborhood or historical district;
 - (4) The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation; or
 - (5) The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the town, or employees of the service provider or other service providers.
 - (6) Conflicts with the provisions of this chapter.

§ 213-8. Shared use of wireless telecommunications facilities and other structures.

- A. Shared use of existing wireless telecommunications facilities shall be preferred by the town, as opposed to the proposed construction of a new telecommunications tower. Where such shared use is unavailable, location of antennas on other preexisting structures shall be considered and preferred. The applicant shall submit a comprehensive report inventorying existing towers and other appropriate structures within four miles of any proposed new tower site, unless the applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other preexisting structures as a preferred alternative to new construction. An applicant intending to share use of an existing telecommunications tower or other structure shall be required to document the intent of the existing owner to share use. In the event that an application to share the use of an existing telecommunications tower does not increase the height of the telecommunications tower, the Board shall waive such requirements of the application required by this chapter as may be for good cause shown.

- B. Such shared use shall consist only of the minimum antenna array technologically required to provide service within the town, to the extent practicable, unless good cause is shown.

§ 213-9. Height of telecommunications towers.

- A. The applicant must submit documentation justifying to the Board the total height of any telecommunications tower, facility and/or antenna and the basis therefor. Such justification shall be to provide service within the town, to the extent practicable, unless good cause is shown.
- B. Telecommunications towers shall be no higher than the minimum height necessary. Unless waived by the Town Board upon good cause shown, the maximum height shall be 110 feet, based on three collocated antenna arrays and ambient tree height of 80 feet.
- C. The maximum height of any telecommunications tower and attached antennas constructed after the effective date of this chapter shall not exceed that which shall permit operation without artificial lighting of any kind, in accordance with municipal, county, state and/or any federal law and/or regulation.

§ 213-10. Visibility of wireless telecommunications facilities.

- A. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
- B. Telecommunications towers shall be of a galvanized finish, or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Board, and shall be maintained in accordance with the requirements of this chapter.
- C. If lighting is required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations, and an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the wireless telecommunications facilities are located.

§ 213-11. Security of wireless telecommunications facilities.

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access. Specifically as follows:

- A. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into.
- B. Transmitters and telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

§ 213-12. Signage.

Wireless telecommunications facilities shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. The sign shall not be lighted unless the Board shall have allowed such lighting or unless such lighting is required by applicable provisions of law. The sign shall be approved by the Board before installation. No other signage, including advertising, shall be permitted on any facilities, antennas, antenna-supporting structures or antenna towers, unless required by law.

§ 213-13. Lot size and setbacks.

- A. All proposed wireless telecommunications facilities shall be set back from abutting parcels, recorded rights-of-way and road and street lines a distance sufficient to substantially contain on-site ice-fall or debris from a tower or tower failure, and to preserve the privacy and sanctity of any adjoining properties.
- B. Wireless telecommunications facilities shall be located with a minimum setback from any property line a distance equal to the height of the wireless telecommunications facility or the existing setback requirement of the underlying zoning district, whichever is greater. Further, any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

§ 213-14. Retention of expert assistance and reimbursement by applicant.

- A. The Board may hire any consultant and/or expert necessary to assist the Board in reviewing and evaluating the application and any requests for recertification.
- B. An applicant shall deposit with the town funds sufficient to reimburse the town for all reasonable costs of consultant and expert evaluation and consultation to the Board in connection with the review of any application. The initial deposit shall be \$5,000. These funds shall accompany the filing of an application and the town will maintain a separate escrow account for all such funds. The town's consultants/experts shall bill or invoice the town no less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process this escrow account has a balance less than \$2,000, the applicant shall immediately, upon notification by the town, replenish said escrow account so that it has a balance of at least \$2,000. Such additional escrow funds must be deposited with the town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the town is more than the amount of the actual billing or invoicing at the conclusion of the review process, the difference shall be promptly refunded to the applicant.
- C. The total amount of the funds set forth in Subsection B of this section may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed by the Board or its consultant/expert to complete the

necessary review and analysis. Additional escrow funds, as required and requested by the town, shall be paid by the applicant.

§ 213-15. Exceptions from a special use permit for wireless telecommunications facilities.

- A. No person shall be permitted to site, place, build, construct or modify, or prepare any site for the placement or use of, wireless telecommunications facilities as of the effective date of this chapter without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this section, no special use permit shall be required for those exceptions noted in the definition of wireless telecommunications facilities, such as those used exclusively for fire, police and other dispatch telecommunications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar telecommunications.
- B. New construction, including routine maintenance on existing wireless telecommunications facilities, shall comply with the requirements of this chapter.
- C. All wireless telecommunications facilities existing on or before the effective date of this chapter shall be allowed to continue as they presently exist; provided, however, that any modification to existing wireless telecommunications facilities must comply with this chapter.

§ 213-16. Public hearing required.

- A. Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing shall be held by the Board, notice of which shall be published in the official newspaper of the town no less than 10 calendar days prior to the scheduled date of the public hearing. In order that the town may notify nearby landowners, the applicant, at least three weeks prior to the date of said public hearing, shall be required to provide names and address of all landowners whose property is located within 1,500 feet of any property line of the lot on which the proposed new wireless telecommunications facilities are proposed to be located.
- B. The Board shall schedule the public hearing referred to in Subsection A of this section within 62 days from the day a completed application is received. The Board, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.¹

§ 213-17. Action on an application for a special use permit.

- A. The Board will undertake a review of an application pursuant to this chapter in a timely fashion, consistent with its responsibilities with SEQRA, and shall decide upon the application within 62 days after the hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board.²

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

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

- B. The Board may refer any application or part thereof to any advisory or other committee for a nonbinding recommendation.
- C. Except for necessary building permits and subsequent certificates of compliance, no additional permits or approvals from the town shall be required for wireless telecommunications facilities covered by this chapter.
- D. After the public hearing and after formally considering the application, the Board may approve and issue or deny a special use permit. Its decision shall be in writing and shall be supported by substantial evidence contained in a written record. The burden of proof for the grant of the permit shall always be upon the applicant.
- E. If the Board approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval, in writing, within 10 calendar days of the Board's action, and the special use permit shall be issued within 30 days after such approval.
- F. If the Board denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial, in writing, within 10 calendar days of the Board's action.

§ 213-18. Recertification of special use permit.

- A. At any time between 12 months and six months prior to the five year anniversary date after the effective date of the special use permit and all subsequent fifth anniversaries of the effective date of the original special use permit for wireless telecommunications facilities, the holder of a special use permit for such wireless telecommunication facilities shall submit a signed written request to the Board for recertification. In the written request for recertification, the holder of such special use permit shall note the following:
 - (1) The name of the holder of the special use permit for the wireless telecommunications facilities.
 - (2) If applicable, the number or title of the special use permit.
 - (3) The date of the original granting of the special use permit.
 - (4) Whether the wireless telecommunications facilities have been moved, relocated, rebuilt or otherwise modified since the issuance of the special use permit and, if so, in what manner.
 - (5) If the wireless telecommunications facilities have been moved, relocated, rebuilt or otherwise modified, then whether the Board approved such action, and under what terms and conditions, and whether those terms and conditions were met.
 - (6) Any requests for waivers or relief of any kind whatsoever from the requirements of this chapter and any requirements for a special use permit.
 - (7) That the wireless telecommunications facilities are in compliance with the special use permit and compliance with all applicable codes, laws, rules and regulations.

- (8) Recertification that the telecommunication tower and attachments both are designed and constructed (“as built”) and continue to meet all local, county, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a qualified New York State licensed professional engineer acceptable to the town, the cost of which shall be borne by the applicant.
- B. If after such review the Board determines that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the Board shall issue a recertification special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or required by applicable statutes, laws, local laws, ordinances, codes, rules and regulations. If, after such review, the Board determines that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, local laws, ordinances, codes, rules and regulations, then the Board may refuse to issue a recertification special use permit for the wireless telecommunications facilities, and in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of such decision by the Board. Any such decision shall be in writing and supported by substantial evidence contained in a written record.
- C. If the applicant has submitted all of the information requested by the Board and required by this chapter, and if the Board does not complete its review, as noted in Subsection B of this section, prior to the five-year anniversary date of the special use permit, or subsequent fifth anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to six months, in order for the Board to complete its review.
- D. If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the timeframe noted in Subsection A of this section, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent fifth anniversaries, unless the holder of the special use permit adequately demonstrates to the Board that extenuating circumstances prevented a timely recertification request. If the Board agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.

§ 213-19. Extent and parameters of special use permit.

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

- A. Such special use permit shall be nonexclusive.
- B. Such special use permit shall not be assigned, transferred or conveyed without the express prior written consent of the Board, and such consent shall not be unreasonably withheld or delayed.

- C. Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled or terminated for a violation of the conditions and provisions of the special use permit for wireless telecommunications facilities, or for a material violation of this chapter after prior written notice to the applicant and the holder of the special use permit.

§ 213-20. Application fee.

- A. At the time that a person submits an application for a special use permit for a new telecommunications tower, such person shall pay an application fee in an amount as set from time to time by resolution of the Town Board to the town. If the application is for a special use permit for collocating on an existing telecommunications tower or high structure, where no increase in height of the tower or structure is required, such person shall pay an application fee in an amount as set from time to time by resolution of the Town Board to the town.³
- B. No application fee is required in order recertify a special use permit for wireless telecommunications facilities unless there has been a modification of the wireless telecommunications facilities since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in Subsection A shall apply.

§ 213-21. Performance security.

The applicant and the owner of record of any proposed wireless telecommunications facilities property site shall at its cost and expense be jointly required to execute and file with the town a bond, or other form of security acceptable to the town as to type of security and the form and manner of execution, in an amount of at least \$75,000 and with such sureties as are deemed sufficient by the Board to assure the faithful performance of the terms and conditions of this chapter and conditions of any special use permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until the removal of the wireless telecommunications facilities and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the special use permit and shall entitle the Board to revoke the special use permit after prior written notice to the applicant and holder of the permit and after a hearing upon due prior notice to the applicant and holder of the special use permit.

§ 213-22. Reservation of authority to inspect wireless telecommunications facilities.

- A. In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters and/or licensees of wireless telecommunications facilities place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and

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

regulations and other applicable requirements, the town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

- B. The town shall pay for costs associated with such an inspection, except for those circumstances occasioned by said holder's, lessee's or licensee's refusal to provide necessary information or necessary access to such facilities, including towers, antennas and appurtenant or associated facilities, or refusal to otherwise cooperate with the town with respect to an inspection, or if violations of this chapter are found to exist, in which case the holder, lessee or licensee shall reimburse the town for the cost of the inspection.
- C. Payment of such costs shall be made to the town within 30 days from the date of the invoice or other demand for reimbursement. In the event that the finding(s) of violation is/are appealed in accordance with the procedures set forth in this chapter, said reimbursement payment must still be paid to the town and the reimbursement shall be placed in an escrow account established by the town specifically for this purpose, pending the final decision on appeal.

§ 213-23. Annual NIER certification.

The holder of the special use permit shall, annually, certify in writing to the town that NIER levels at the site are within the threshold levels adopted by the FCC. The certifying engineer need not be approved by the town.

§ 213-24. Liability insurance.

- A. A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage and umbrella insurance coverage for the duration of the special use permit in amounts as set forth below:
 - (1) Commercial general liability covering personal injuries, death and property damage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - (2) Automobile coverage: \$1,000,000 per occurrence/\$2,000,000 aggregate.
 - (3) Workers' compensation and disability: statutory amounts.
- B. The commercial general liability insurance policy shall specifically include the town and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insureds.
- C. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.
- D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the town with at least 30 days' prior written notice in advance of the cancellation of the insurance.

- E. Renewal or replacement policies or certificates shall be delivered to the town at least 15 days before the expiration of the insurance which such policies are to renew or replace.
- F. Before construction of a permitted wireless telecommunications facility is initiated, but in no case later than 15 days after the grant of the special use permit, the holder of the special use permit shall deliver to the town a copy of each of the policies or certificates representing the insurance in the required amounts.

§ 213-25. Indemnification.

- A. Any special use permit issued pursuant to this chapter shall contain a provision with respect to indemnification. Such provision shall require the holder of the special use permit, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless and exempt the town, officials of the town, its officers, agents, servants and employees from any and all penalties, damage or charges arising out of any and all claims, suits, demands, causes of action or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the construction, erection, modification, location, products performance, operation, maintenance, repair, installation, replacement, removal or restoration of wireless telecommunications facilities within the town. With respect to the penalties, damages or charges referenced herein, reasonable attorneys' fees, consultants' fees and expert witness fees are included in those costs that are recoverable by the town.
- B. Notwithstanding the requirements noted in Subsection A of this section, an indemnification provision will not be required in those instances where the town itself applies for and secures a special use permit for wireless telecommunications facilities.

§ 213-26. Penalties for offenses.

- A. In the event of a violation of this chapter or any special use permit issued pursuant to this chapter, the Town Board may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the town, fines or penalties as set forth below.
- B. 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 or of such ordinance or regulation 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.

- C. Notwithstanding anything in this chapter, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this chapter or any section of this chapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The town may also seek injunctive relief to prevent the continued violation of this chapter, without limiting other remedies available to the town.

§ 213-27. Default and/or revocation of special use permit.

- A. If wireless telecommunications facilities are repaired, rebuilt, placed, moved, relocated, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this chapter or of the special use permit, then the Town Board shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Town Board may, at its sole discretion, order the violation remedied within 24 hours.
- B. If within the period set forth in Subsection A above the wireless telecommunications facilities are not brought into compliance with the provisions of this chapter or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the Town Board may revoke such special use permit for wireless telecommunications facilities and shall notify the holder of the special use permit within 48 hours of such action.

§ 213-28. Removal of wireless telecommunications facilities.

- A. Under the following circumstances, the Town Board may determine that the health, safety and welfare interests of the town warrant and require the removal of wireless telecommunications:
- (1) Wireless telecommunications facilities with a permit have been abandoned (i.e., not used as wireless telecommunications facilities) for a period exceeding 90 days or a total of 180 days in any three-hundred-sixty-five-day period, except for periods caused by force majeure or Acts of God, in which case, repair or removal shall commence within 90 days.
 - (2) Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard.
 - (3) Wireless telecommunications facilities have been located, constructed or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.
- B. If the Town Board makes such a determination as noted in Subsection A of this section, then the Town Board shall notify the holder of the special use permit for the wireless

telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed. The Town Board may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

- C. The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Town Board. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Town Board.
- D. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the Town Board may order officials or representatives of the town to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.
- E. If the town removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim the property and remove it from the site to a lawful location within 10 days, then the town may take steps to declare the wireless telecommunications facilities abandoned, and sell it and its components.
- F. Notwithstanding anything in this section to the contrary, the Town Board may approve a temporary use permit/agreement for the wireless telecommunications facilities for no more than 90 days, during which time a suitable plan for removal, conversion or relocation of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Town Board, and an agreement to such plan shall be executed by the holder of the special use permit and the town. If such a plan is not developed, approved and executed within the ninety-day time period, then the town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

§ 213-29. Relief/exemption from regulations.

Any applicant desiring relief or exemption from any aspect or requirement of this chapter may request such from the Town Board at a preapplication meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of the Town Board. However, the burden of proving the need for the requested relief or exemption is solely on the applicant to prove to the satisfaction of the Town Board. The applicant shall bear all costs of the Town Board or the town in considering the request, and the relief shall not be transferable to a new or different holder of the permit or owner of the tower or facilities without the specific written permission of the Town Board. Such permission shall not be unreasonably withheld or delayed. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief or

exemption will have no significant affect on the health, safety and welfare of the town, its residents and other service providers.

§ 213-30. Periodic regulatory review by Town Board.

- A. The Town Board may at any time conduct a review and examination of this entire chapter.
- B. If after such a periodic review and examination of this chapter the Town Board determines that one or more provisions of this chapter should be amended, repealed, revised, clarified or deleted, then the Town Board may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the town, the Town Board may repeal this entire law at any time.
- C. Notwithstanding the provisions of Subsections A and B of this section, the Town Board may at any time, and in any manner (to the extent permitted by federal, state or local law), amend, add, repeal and/or delete one or more provisions of this chapter.

§ 213-31. Adherence to state and/or federal rules and regulations.

- A. To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief or is otherwise exempt from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to and comply with all applicable rules, regulations, standards and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.
- B. To the extent that applicable rules, regulations, standards and provisions of any state or federal agency, including but not limited to the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting and security are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard or provision, or sooner as may be required by the issuing entity.

§ 213-32. Conflict with other laws.

Where this chapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the county, state or federal government, the more restrictive or protective of the town and the public shall apply.

§ 213-33. Authority.

This chapter is enacted pursuant to the Municipal Home Rule Law. This chapter shall supersede the provisions of the Town Law to the extent it is inconsistent with the same, and to the extent

permitted by the New York State Constitution, the Municipal Home Rule Law or any other applicable statute.



Chapter 214

TOWN OF GRAFTON WIND ENERGY ORDINANCE

§214-1. Title	§214-12. Required Safety Measures	§214-13. Traffic Routes and Road Maintenance
§214-2. Purpose	§214-14. Issuance of Permits and Certificates of Conformity	
§214-3. Authority	§214-15. Abatement of Abandoned or Discontinued Towers	
§214-4. Applicability	§214-16. Permit Revocation	
§214-5. Permits	§214-17. Fees/Hiring of Consultants	
§214-6. Definitions	§214-18. Waivers and Immaterial Modifications	
§214-7. Application Requirements	§214-19. Enforcement/Penalties for Offenses	
§214-8. Environmental Review		
§214-9. Application Review Process		
§214-10. Wind Energy Facility Development Standards		
§214-11. Setbacks, Noise and Height Limits		

[HISTORY: Adopted & Added to Code by the Town Board of the Town of Grafton L.L. No. 2 of 2009 on August 13, 2009]

General References

Section 2141. Title This chapter may be cited as the "Town of Grafton Wind Energy Law."

Section 2142. Purpose

The purpose of this chapter is to guide the construction and operation of wind energy facilities, small wind energy facilities and wind measurement towers in the Town of Grafton, Rensselaer County, subject to reasonable conditions that will protect the public health, safety and welfare.

Section 2143. Authority

The Town Board of the Town of Grafton enacts this chapter under the authority granted by § 10 of the Municipal Home Rule Law.

Section 2144. Applicability

All requirements of this chapter shall apply to all wind energy facilities towers proposed, operated, modified, or constructed within the municipal boundaries of the Town of Grafton, Rensselaer County. Small wind energy facilities and wind measurement towers shall be allowed throughout all areas of the Town subject to the requirements of this chapter which specifically apply to them.

Chapter 214

TOWN OF GRAFTON WIND ENERGY ORDINANCE

§214-1. Title	§214-12. Required Safety Measures
§214-2. Purpose	§214-13. Traffic Routes and Road Maintenance
§214-3. Authority	§214-14. Issuance of Permits and Certificates of Conformity
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§214-7. Application Requirements	§214-18. Waivers and Immaterial Modifications
§214-8. Environmental Review	§214-19. Enforcement/Penalties for Offenses
§214-9. Application Review Process	
§214-10. Wind Energy Facility Development Standards	
§214-11. Setbacks, Noise and Height Limits	

[HISTORY: Adopted & Added to Code by the Town Board of the Town of Grafton L.L. No. 2 of 2009 on April 16, 2009]

General References

Section 214-1. Title This chapter may be cited as the “Town of Grafton Wind Energy Law.”

Section 214-2. Purpose

The purpose of this chapter is to guide the construction and operation of wind energy facilities, small wind energy facilities and wind measurement towers in the Town of Grafton, Rensselaer County, subject to reasonable conditions that will protect the public health, safety and welfare.

Section 214-3. Authority

The Town Board of the Town of Grafton enacts this chapter under the authority granted by § 10 of the Municipal Home Rule Law.

Section 214-4. Applicability

All requirements of this chapter shall apply to all wind energy facilities towers proposed, operated, modified, or constructed within the municipal boundaries of the Town of Grafton, Rensselaer County. Small wind energy facilities and wind measurement towers shall be allowed throughout all areas of the Town subject to the requirements of this chapter which specifically apply to them.

Section 214-5. Permits

A. Permit requirement. No wind energy facility, small wind energy facility or wind measurement tower shall be constructed, reconstructed, modified, or operated in the Town of Grafton except by first obtaining, as applicable, a wind energy facility permit, small wind energy facility permit or wind measurement tower permit as provided under this chapter.

B. Permitting authority. The Town of Grafton Planning Board shall have sole discretion to review, consider and issue wind energy facility permits, small wind energy facility permits and wind measurement tower permits in accordance with this chapter.

C. Exemptions. In the event that an applicant or permittee intends to undertake in-kind replacement of a wind energy facility, small wind energy facility or wind measurement tower, the Town Code Enforcement Officer, Building Inspector or other Town designee shall be notified prior to any such replacement. The Town Code Enforcement Officer, Building Inspector or other Town designee may approve such in-kind replacement or refer the applicant or permittee to the Planning Board to determine whether a wind energy facility, small wind energy facility or wind measurement tower permit must first be obtained.

Section 214-6. Definitions

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

ACCESSORY FACILITIES OR EQUIPMENT

Any structure other than a wind turbine, related to the use and purpose of deriving, collecting or distributing energy from such wind turbines located on or associated with a wind energy facility, small wind energy facility or wind measurement tower.

PERMIT A permit issued pursuant to this chapter granting the holder the right to construct, maintain and operate a wind energy facility, small wind energy facility or wind measurement tower.

PUBLIC ROAD Any federal, state, county or Town road which is open to the public, or private road regularly used by multiple persons for access to separate off-site parcels of land, access to which is unrestricted by the owner(s) of said private road.

RESIDENCE Any dwelling located off-site which is suitable for habitation on the date a wind energy facility, small wind energy facility or wind measurement tower permit application is received by the Town and deemed complete by the Planning Board in accordance with this chapter, and for which a valid certificate of occupancy has been issued. A residence may be part of a multifamily dwelling or multipurpose building, and shall include buildings such as hotels or motels, hospitals, day-care centers, dormitories, sanitariums and nursing homes.

SETBACK AGREEMENT Any written agreement, contract, easement or covenant which burdens land adjacent to a wind energy facility, small wind energy facility or wind measurement tower for the benefit of an applicant. A setback agreement must expressly (1) acknowledge and

agree to the applicable requirements of this chapter and (2) release any right which the owner(s) of such burdened land may have in the enforcement of this chapter. All setback agreements shall run with the land and be recorded. In the event a setback agreement lapses prior to full decommissioning of the wind energy facility, small wind energy facility or wind measurement tower, the applicant and/or owner of the facility or tower shall be in violation of this chapter. **SITE** The parcel(s) of land where a wind energy facility, small wind energy facility or wind measurement tower is to be placed. The site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a wind energy facility, small wind energy facility or wind measurement tower or has entered an agreement for said facility or a setback agreement shall not be considered "off-site."

SMALL WIND ENERGY FACILITY A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics and electrical collection and distribution equipment, and accessory facilities or equipment, which has a nameplate capacity of not more than 100 kilowatts.

TOTAL HEIGHT The highest point above ground level of any improvement related to a wind energy facility, small wind energy facility or wind measurement tower. Total height as applied to wind turbines shall include the highest point of any wind turbine blade above the tower.

WIND ENERGY FACILITY

Any wind turbine or array of wind turbines designed to deliver electricity to the power grid for sale with a combined production capacity of more than 100 kilowatts, including all related infrastructure, electrical collection and distribution lines and substations, access roads and accessory structures, including accessory facilities or equipment.

WIND MEASUREMENT TOWER

A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND TURBINE

A wind energy conversion system consisting of turbine blades and hub connected to a drive train and electrical generator housed in a nacelle mounted on a tower together with associated control or conversion electronics and equipment.

Section 214-7. Application Requirements

A complete application for a wind energy facility permit, small wind energy facility permit or wind measurement tower permit shall include:

- A. A completed application for a permit on a form provided by the Town Planning Board or the Town Code Enforcement Officer.

B. For a Wind Energy Facility and/or a Wind Measurement Tower, a site plan prepared by a licensed professional engineer, including:

- (1) Property lines and physical dimensions of the site;
- (2) Location, approximate dimensions and types of existing structures and uses on the site, public roads, and adjoining properties within 500 feet of the boundaries of any proposed wind turbine, accessory facilities or equipment, or 1-1/2 times the total height of such wind turbines, whichever shall be greater;
- (3) Location of each proposed wind turbine, wind measurement tower and accessory facilities or equipment;
- (4) Location of all above- and below-ground utility lines on the site as well as transformers, the interconnection point with transmission lines, and other ancillary facilities or structures, including, without limitation, accessory facilities or equipment;
- (5) Locations of setback distances as required by this chapter;
- (6) All other proposed facilities, including, without limitations, access roads, electrical substations, storage or maintenance units, and fencing;
- (7) All site plan application materials required under Chapter 186 of the Town of Grafton;
- (8) All transmission line plans from the proposed site to the proposed substation, with proof that notice has been provided to the Supervisor of any towns where such transmission lines are located;
- (9) Such other information as may be required by the Planning Board, including a List of property owners, with their mailing addresses, within 500 feet of the outer boundaries of the proposed site.

C. For a small wind energy facility, a plan prepared by the applicant with the information contained in B 1,3,5,7 and 8.

D. For Wind Energy Facilities and/or Wind Measurement Towers: The proposed make, model, picture and manufacturer's specifications of the proposed wind turbine and tower model(s), including noise decibel data, and material safety data sheet documentation for all materials used in the operation of the equipment shall be provided for each proposed wind turbine. If a particular wind turbine has not been selected by the applicant at the time of application due to a constraint as to the availability of equipment or the inability of the applicant to obtain appropriate supplier commitments, such information shall nevertheless be provided to the Planning Board with an acknowledgment that the type of wind turbine may be modified during application review.

E. For Wind Energy Facilities and/or Wind Measurement Towers:

(1) A proposed lighting plan to be submitted to and reviewed by the Federal Aviation Administration for any structure equal to or more than 200 feet above ground, or as may otherwise be required by the Federal Aviation Administration or local, state or federal law or regulation and

(2) A construction schedule describing anticipated commencement and completion dates, including a traffic analysis with a description of the routes to be used by construction and delivery vehicles, and.

(3) An operations and maintenance plan providing for regular periodic maintenance schedules, any special maintenance requirements. Procedures and notification requirements for restarts during icing events should be proposed and established by the Planning Board.

F. For wind energy facilities only:

(1) A decommissioning plan that provides for an estimation of decommissioning costs, the method of ensuring that funds shall be available for decommissioning and restoration of the site and any off-site areas disturbed by or utilized during decommissioning, the method by which the decommissioning cost estimate and funding shall be kept current, and the manner in which the wind energy facility shall be decommissioned.

(2) A complaint resolution process to address complaints from nearby residents.

(3) A transportation plan describing routes to be used in delivery of project components, equipment and building materials and those to be used to provide access to the site during and after construction. Such plan shall also describe any anticipated improvements to existing roads, bridges or other infrastructure, as well as measures which will be taken to restore damaged/disturbed access routes following construction.

(4) A fire protection and emergency response plan to address emergency response and coordinate with local emergency response providers during any construction or operation phase emergency, hazard or other event and funding mechanism for any special first responder equipment and/or training if any, to address emergency/rescue situations.

(5) Predicted wind-turbine-only sound analysis.

(a) A sound level analysis shall be prepared to determine predicted sound levels at off-site property lines and residences from operation of wind turbines. Such analysis shall be referred to as "wind turbine Only Sound." The analysis shall include the sound level, dBA, for the wind turbine operating at rated power output and for the wind turbine shut down.

(b) Wind-turbine-only sound shall be predicted based upon appropriate ambient noise levels obtained from field or laboratory measurements of the wind turbine proposed to be installed. Daytime and nighttime ambient noise levels of the site and nearby off-site areas shall be determined for wind speeds corresponding to rated operation of the wind turbine and for wind speed of one meter/second or less.

(c) Except as otherwise provided herein, wind turbines shall be located so that predicted wind-turbine-only sound at ground-level property lines shall not exceed the appropriate ambient noise level by eight dBA, and wind-turbine-only sound at residences shall not exceed the appropriate ambient noise level by four dBA with the turbine operating or shut down. If the spectra of the wind-turbine-only sound contain dominant, steady pure tones, as for instance a whine, screech or hum, the standards for audible noise set forth in this subsection shall be reduced by four dBA. A pure tone is defined to exist if the one-third octave band sound pressure level in the band, including the tone, exceeds the average of the sound pressure levels of the two contiguous bands by five dBA for center frequencies of 500Hz or above, eight dBA for center frequencies between 160 Hz and 400 Hz, or by 15 dBA for center frequencies less than or equal 125 Hz. Exceedence of these noise standards shall be deemed a violation of the permit..

(d) Statement of projected noise measurements.

[1] The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed wind energy conversion facility, measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:

[a] Existing or ambient: the measurements of existing noise.

[b] Existing plus the proposed wind energy conversion facility: maximum estimate of noise from the proposed facility plus the existing noise environment.

[2] Such statement shall be certified and signed by a qualified engineer, stating that noise measurements are accurate and meet the noise standards of this chapter and applicable state requirements.

(6) A post-construction sound monitoring plan shall be developed which, at a minimum, requires annual certification by a qualified engineer of the permittee or applicant to the Planning Board that the wind energy facility remains in conformance with the requirements of this chapter. If no complaints regarding noise are received in a five-year period from operation, the applicant may request that the annual certification be suspended.

Section 214-8. Environmental review

A. Compliance with the State Environmental Quality Review Act ("SEQRA") shall be required.

B. Applicants shall submit the following materials to the Town of Grafton Planning Board:

(1) Small wind energy facilities and wind measurement towers: Applicants shall be required to prepare and submit Part 1 of a full environmental assessment form.

(2) Wind energy facilities: Applicants shall be required to prepare and submit a full environmental assessment form which, unless a lead agency other than the Planning Board has already been established in accordance with the requirements of the State Environmental Quality

Review Act, shall be distributed by the Planning Board to all involved agencies prior to any determination of significance by the lead agency. All environmental impact statements for wind energy facilities shall contain, but not be limited to:

(a) A visual impact analysis, including:

[1] Mapping of scenic resources of statewide significance, as defined by the New York State Department of Environmental Conservation Visual Policy (Policy DEP-00-2), and of local significance, as officially listed by the relevant municipality within the study area.

[2] Viewshed mapping and/or cross-section analysis to identify areas (including the significant resources identified above) with potential views of the project.

[3] Description of the character and quality of the affected landscape.

[4] Photographic simulations of what the proposed project will look like from a reasonable number of representative viewpoints within the five-mile-radius study area to be selected in consultation with the Planning Board.

[5] Evaluation of the project's visual impact based on the viewshed mapping and photographic simulations described above and all applicable SEQRA visual impact addenda.

[6] Recommended visual mitigation measures (in accordance with DEC Policy DEP-00-2), if warranted, based on the results of the impact evaluation described above.

(b) An avian impact study: Appropriate bird and bat migration, nesting and habitat studies shall be submitted. The applicant shall solicit input from the New York State Department of Environmental Conservation on such studies and shall follow any required protocols established, adopted or promulgated by the Department.

(c) Archaeological and architectural impact analysis: The applicant shall solicit input from the New York State Historic Preservation Office.

(d) Fiscal and economic impact analysis.

(e) An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, 911 and other wireless communication.

(f) An assessment of potentially impacted wetland, surface water and groundwater resources, and the geology and land use of the site, as well as an assessment of construction phase impacts, traffic impacts and adverse sound impacts which may arise from project construction or operation.

(g) An assessment of potential shadow flicker at off-site residences and roadways.

Section 214-9. Application Review Process

- A. Applicants must arrange a pre-application meeting with the Building Inspector and consultants retained by the Town for application review.
- B. Following the pre-application meeting, 6 copies of the application shall be submitted to the Town Planning Board. Payment of all application fees shall be made at the time of submission.
- C. The Planning Board shall hold at least one public hearing on the application. Notice shall be published in the Town's official newspaper, no less than five days before any hearing, but, where any hearing is adjourned by the Planning Board to hear additional comments, no further publication shall be required. The public hearing may be combined with public hearings on any environmental impact statement or requested waivers. All adjoining property owners within 1,500 feet of the outer boundary of the site shall be given written notice of a public hearing via regular mail at the expense of the applicant.
- D. Notice of the project shall also be given in accordance with the General Municipal Law.
- E. Following the holding of the public hearing and completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the permit application, in accordance with the standards in this chapter. All approvals and denials shall be in writing, setting forth competent reasons for such approval or denial.

Section 214-10. Wind Energy Facility Development Standards

The following standards shall apply to wind energy facilities only:

- A. All power transmission lines from the tower to any building, substation, or other structure shall be located underground in accordance with National Electrical Code standards, unless environmental constraint limits the feasibility of such burial.
- B. Wind turbines and towers must be white in color.
- C. No advertising signs are allowed on any part of the wind energy facility, including fencing and support structures.
- D. No tower shall be lit except to comply with Federal Aviation Administration (FAA) requirements. Minimum security lighting for ground-level facilities shall be allowed as approved on the wind energy facility development plan.
- E. The wind energy facility shall be designed to minimize the impacts of land clearing and the loss of important open spaces. Development on agricultural lands shall follow the Guidelines for Agricultural Mitigation for Wind Power Projects published by the New York State Department of Agriculture and Markets.

F. Stormwater run-off and erosion control shall be managed in a manner consistent with all applicable local, state and federal laws and regulations and such standards as shall be applied by the Planning Board on the advice of the Town consultants.

G. Wind turbines shall be located in a manner that minimizes shadow flicker on residences and roadways.

H. No wind energy facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or personal communication systems would produce electromagnetic interference with signal transmission or reception. No wind energy facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation. If it is determined that a wind energy facility is causing electromagnetic interference, the operator shall take the necessary corrective action to eliminate this interference, including relocation or removal of the facilities, or resolution of the issue with impacted parties.

Section 214-11. Setbacks, noise and height limits

A. Except as provided herein, each wind turbine associated with a wind energy facility shall be set back as follows:

(1) A distance no less than 1,500 feet from residences.

(2) A distance no less than the greater of 1.5 times the total height of the wind turbine or 500 feet from off-site property boundaries.

(3) A distance no less than the greater of 1.5 times the total height of the wind turbine or 500 feet from public roads.

B. Small wind energy facility wind turbines and wind measurement towers shall be set back from off-site property boundaries at least 1.5 times the structure height.

C. Except as provided herein, the sound pressure level generated by a wind energy facility or small wind energy facility shall not exceed the sound levels required and established in accordance with this chapter. Compliance shall periodically be determined by the Town Code Building Inspector/Enforcement Officer, or such other officer or employee which the Town Board may designate. This shall be the only project operation phase noise requirement applicable to a project under this chapter, except that the Planning Board may impose appropriate additional requirements in accordance with this chapter.

D. The setback and noise requirements set forth at Subsections A, B and C of this Section 11 shall not apply in the event that a proper setback agreement is obtained by the permittee or applicant, or if the property is on-site.

E. Wind energy facilities shall not exceed 500 feet in total height. Small wind energy facility wind turbines and wind measurement towers shall not exceed 200 feet in total height. Any small wind energy facility wind turbine or wind measurement tower which exceeds 200 feet in total height shall be reviewed by the Planning Board and considered a wind energy facility for purposes of this chapter, except that the preparation of a draft environmental impact statement shall be at the discretion of the Planning Board and in accordance with the State Environmental Quality Review Act.

F. Prior to issuance of a building permit for wind energy facilities only, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might be caused by or result from the operation or maintenance of such wind energy facility.

Section 214-12 Required Site Safety Measures

A. All wind turbines shall have an automatic braking, governing or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.

B. With the exception of electrical collection and distribution lines, accessory facilities or equipment shall be gated, fenced or secured appropriately to prevent unrestricted public access to the facilities.

C. Warning signs shall be posted at the entrances to the wind energy facility and at the base of each tower warning of electrical shock or high voltage and containing emergency contact information.

D. The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet for any wind turbine associated with a wind energy facility, and 15 feet for any wind turbine associated with a small wind energy facility.

E. Wind energy facilities shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

F. Prior to issuance of a building permit for wind energy facilities only, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might be caused by or result from the operation or maintenance of such wind energy facility.

Section 214-13. Traffic Routes and Road Maintenance

The provisions of this section shall apply to wind energy facilities only.

A. Designated traffic routes for construction and delivery vehicles to minimize traffic impacts, wear and tear on local roads and impacts on local business operations shall be proposed by the applicant and reviewed by the Planning Board.

B. To the extent the designated traffic routes will include use of Town, county, or state roads, the applicant is responsible for executing a road use agreement with the appropriate agency which shall provide for the remediation of damaged roads upon completion of the installation or maintenance of a wind energy facility, and for adequate maintenance of the roads during construction of the wind energy facility such that the roads will remain open and passable. Prior to the issuance of any building permit, the cost of remediating road damage shall be secured in the form of a bond, letter of credit or other surety acceptable to the appropriate agency and sufficient to compensate the Town for any damage to public roads.

C. The applicant shall provide predevelopment and post-development photographic evidence of the condition of Town, county, or state roads to be traveled upon by construction and delivery vehicles.

Section 214-14. Issuance of Permits and Certificates of Conformity

Issuance of wind energy facility, small wind energy facility and wind measurement tower permits and certificates of conformity shall be as follows:

A. The Planning Board shall, within 45 days of either issuing SEQRA findings or a SEQRA negative declaration or conditioned negative declaration, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated. This time period may be extended with consent of the applicant.

B. The Planning Board is hereby expressly empowered to impose conditions governing the issuance of the permit as well as construction and operational phases of the project which it deems necessary and appropriate to ensure compliance with this chapter, the State Environmental Quality Review Act, conformity of project construction and operation with representations made by the applicant during the application review process, as well as with any determinations or findings issued by the Planning Board or any other involved agency under the State Environmental Quality Review Act, compliance with any other federal, state or local laws or regulations applicable to the project, and as may be necessary to promote the public health, safety and welfare.

C. If approved, the Planning Board shall direct the Town Code Enforcement Officer/Building Inspector or other designee authorized by the Town Board to issue a permit upon satisfaction of any and all conditions precedent set forth under this chapter, the terms of approval or conditions of the permit or any additional requirement of the Town Board imposed in connection with any other project approval or agreement deemed necessary to the issuance of the permit.

D. The decision of the Planning Board shall be filed within five days in the office of the Town Clerk and a copy shall be mailed to the applicant by first class mail.

E. If any approved wind energy facility, small wind energy facility or wind measurement tower is not completed within 24 months of issuance of the permit, the permit shall expire unless the Planning Board shall have granted an extension.

F. Upon commissioning of the project, which for purposes of wind energy facilities and small wind energy facilities shall mean the conversion of wind energy to electrical energy for on-site use or distribution to the electrical grid, and for purposes of wind measurement towers shall mean the collection of wind speed and/or other data by the wind measurement tower equipment, the Town Code Enforcement Officer/Building Inspector or other designee authorized by the Town Board shall determine whether the project is in compliance with the permit. If the Town Code Enforcement Officer or Building Inspector determines the project is in compliance with the Permit, a certificate of conformity shall be promptly issued to the permittee.

Section 214-15. Abatement of Abandoned or Discontinued Towers

A. If any wind turbine stops converting wind energy into electrical energy and/or distribution of that energy for on-site use or transmission onto the electrical grid for a continuous period of 12 months, the applicant/permittee shall remove said system at its own expense following the requirements of the decommissioning plan required under this chapter or any permit. In measuring the period of continuous inactivity, operations that are temporary in nature (energy is distributed for fewer than 14 continuous days and followed by a period of inactivity) shall not restart, suspend, or otherwise toll the running of the aforesaid twelve-month time period. The Town Board may grant an extension to this time period for one year or less.

B. At such time that a wind energy conversion facility is scheduled to be abandoned or discontinued, the applicant will notify the Town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that an applicant fails to give such notice, the facility shall be considered abandoned upon such discontinuation of operations.

C. Upon abandonment or discontinuation of use, the carrier shall physically remove the wind energy conversion facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- (1) Removal of all machinery, equipment, equipment shelters and security barriers from the subject property.
- (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.

(3) Restoring the location of the wind energy conversion facility to its natural condition, except that any landscaping, grading or below-grade foundation shall remain in the "after" condition.

D. If an applicant fails to remove a wind energy conversion facility in accordance with this chapter, the Town shall have the authority to enter the subject property and physically remove the facility and charge all costs of removal to the property owner.

E. The Planning Board or Town Board shall require the applicant to post a bond or letter of credit at the time of construction to cover costs of the removal in the event the Town must remove the facility. The amount of such bond or letter of credit shall be reviewed and approved by the Planning Board under the approved decommissioning plan .

Section 214-16. Permit Revocation

All wind energy facilities, small wind energy facilities and wind measurement towers shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions. Should a wind turbine or wind measurement tower become inoperable, or any part of a wind energy facility or small wind energy facility be damaged, or should a violation of a permit condition occur, the permittee, owner or operator shall remedy the failure within 90 days. Upon a failure to perfect a timely remedy, project operation shall cease. Application of this section of the chapter shall in no way extend or toll any time periods set forth in this chapter.

Section 214-17. Fees: Hiring of Consultants

A. Upon application for a wind energy facility permit, the applicant shall pay a permit fee equal to \$500 per megawatt of proposed nameplate capacity of a project. Upon application for a small wind energy facility permit or wind measurement tower permit, the applicant shall pay a permit fee as determined by the published schedule of fees enacted by resolution of the Town Board. This permit fee shall be used to offset any internal costs the Town may incur in administering a permit and shall be in addition to any application fee or other fees or host community payments required of the applicant.

B. In addition to any fees collected in accordance with Subsection A of this section, the Town Planning Board, Building Inspector/Code Enforcement Officer and Town Board may hire any consultant and/or experts necessary to assist the Town in reviewing and evaluating permit applications, including, but not limited to, site inspections, the construction and modification of the site once permitted, and any requests for certification or recertification that the project is in conformity with the permit or the Law. An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of the application.

Section 214-18. Waivers and immaterial modifications**A. Waivers.**

(1) The Planning Board may grant a waiver from the strict application of the provisions of this chapter to improve the quality of any existing wind energy facility, small wind energy facility or wind measurement tower and to better protect the health, safety and welfare of the Town. Area requirements, including setbacks, noise requirements and height limits, shall not be waived by the Planning Board except as described Section 11 of this chapter.

(2) The Planning Board shall consider the impact of the waiver on the neighborhood, including the potential benefits or detriment to nearby properties, the benefits or detriments to the applicant, feasible alternatives and the magnitude of the request. The Planning Board may attach such conditions as it deems appropriate to waiver approvals to ensure that such waiver adequately protects the public health, safety and welfare.

B. Immaterial modifications.

(1) Unless expressly limited by a condition imposed in the Permit, the Town Code Enforcement Officer/Building Inspector or other Town designee may, during project construction, allow immaterial modifications to the design of the project as represented in the final set of site plans reviewed and considered by the Planning Board. Such immaterial modifications shall only be allowed, if at all, in response to a written request by the applicant or permittee. All such requests shall be submitted in writing, addressed to the authorized Town designee, with copies to the Chairman of the Planning Board, the Town Planner or other Town designee, and the Town's designated consultants. The Planning Board Chairman shall review the proposed immaterial modifications and, if deemed necessary, require the applicant to appear before the Planning Board to grant approvals for the modifications.

(2) Immaterial alterations shall only include a change in the location, type of material or method of construction of a wind energy facility, small wind energy facility or wind measurement tower that (a) will not result in any material increase in any environmental impact of the project as compared to the impacts reviewed and accepted for the project by the Town Planning Board; (b) shall not cause the project to violate any applicable setbacks or other requirements of this chapter; or (c) shall not cause the project to be inconsistent with the SEQRA determination or findings issued by the Planning Board. The applicant or permittee shall be required to acknowledge to the Town in written form that the requested modification is immaterial in accordance with the requirements of this § 269-18. At the request of the Town designee, Planning Board, Town's designated consultants or the Town Board, the Town may commission appropriate analyses to verify this acknowledgment, and the cost of any such analysis shall be paid in accordance with Section 17 of this chapter.

Section 214-19. Enforcement: Penalties for Offenses

A. The Town Code Enforcement Officer shall enforce the provisions of this chapter. Such officer may, with the consent of the Town Board, contract with professional consultants to assist in the enforcement and administration of this chapter. Such professional fees shall be the responsibility of the applicant to pay.

B. Penalties. Any person owning, controlling, operating or managing a wind energy facility, small wind energy facility or wind measurement tower in violation of this chapter or in noncompliance with the terms and conditions of any permit issued pursuant to this chapter, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of a violation of this chapter and subject to a fine of not more than \$1,000 per day per violation.

C. Special proceeding. The designated enforcement officer may, with the consent of the Town Board, institute an action or proceeding available at law to prevent, correct or abate any unlawful construction, erection, structural alteration, reconstruction, modification and/or use of a wind energy facility, small wind energy facility or wind measurement tower in the Town. This shall be in addition to other remedies and penalties herein provided or available at law.



Chapter 218
TOWN-OWNED PROPERTY

ARTICLE I
Use of Motorized Vehicles

§ 218-2. Exceptions.

§ 218-3. Penalties for offenses.

§ 218-1. Unauthorized vehicles prohibited.

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

ARTICLE I
Use of Motorized Vehicles
[Adopted 12-9-1991]

§ 218-1. Unauthorized vehicles prohibited.

Unauthorized motorized vehicles on town lands, including the town square and basketball court area, are prohibited.

§ 218-2. Exceptions.

Exceptions to this article can be granted by the Town Board.

§ 218-3. Penalties for offenses.¹

Fines will be set at not more than \$250, plus restitution for any damages incurred.

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



Chapter 223
VEHICLES, ABANDONED AND UNREGISTERED

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| § 223-1. Statement of purpose. | § 223-5. Failure to remove vehicle. |
| § 223-2. Definitions. | § 223-6. Penalties for offenses. |
| § 223-3. Outdoor storage prohibited. | § 223-7. Removal of violating vehicles. |
| § 223-4. Notice of violation. | |

[HISTORY: Adopted by the Town Board of the Town of Grafton at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Junk and junk dealers — See Ch. 150.

Vehicles and traffic — See Ch. 225.

§ 223-1. Statement of purpose.

The outdoor storage of abandoned, junked, discarded and unregistered motor vehicles on privately owned property within the Town of Grafton is detrimental to the health, safety and general welfare of the community. The same also constitutes an attractive nuisance to children and in many ways imperils their safety. Such storage also endangers the person and property of members of the community, since fuel tanks containing gasoline or gasoline fumes may easily explode. Such storage is unsightly and depreciates property values. The control of the outdoor storage of abandoned, junked, discarded and unregistered motor vehicles on privately owned properties within the Town of Grafton is therefore regulated for the preservation of the health, safety and general welfare of the community.

§ 223-2. Definitions.

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

ABANDONED MOTOR VEHICLE — The intent of the owner of a motor vehicle not to use it on the public highways shall establish it as abandoned. The intent of the owner shall be determined by all relevant facts, including but not limited to any one of the following: the physical condition of the motor vehicle, any statement as to its abandonment, the length of time since the motor vehicle was last used on the public highways and whether the motor vehicle is currently registered. With respect to a motor vehicle not required to be registered or motor vehicles not usually used on public highways, the intent of the owner shall be determined by the physical condition of the motor vehicle, the length of time since it was last used for the purposes intended and any statement as to its abandonment, and other relevant facts.

DISCARDED MOTOR VEHICLE — Any motor vehicle which the owner thereof, as established by the surrounding circumstances, does not intend to recover the possession of, or any motor vehicle whose owner cannot be found after due and reasonable inquiry.

JUNKED MOTOR VEHICLE — Any motor vehicle in such condition as to cost more to repair and place the same in operating condition than the reasonable market value before such repair.

MOTOR VEHICLE — Every vehicle originally designed and intended to be operated, drawn or driven, or capable of being operated, drawn or driven, upon a public highway by any power other than muscular power. For the purposes of this chapter the term “motor vehicle” shall include but not be limited to automobiles, trucks, buses, motorcycles and trailers.

OWNER OF MOTOR VEHICLE — A person, firm or corporation having the property in or title to a motor vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest in another person, and also including any lessee or bailee of a motor vehicle having the use thereof under lease or otherwise.

OWNER OF PRIVATE PROPERTY — A person, firm or corporation being the owner, contract purchaser, tenant, lessee, occupant, undertenant, receiver or assignee of private premises or private property located within the Town of Grafton.

PREMISES or PROPERTY — Includes all parcels of real property privately owned, situated in the Town of Grafton, whether occupied or vacant.

UNREGISTERED MOTOR VEHICLE — Any motor vehicle which may be registered with the State of New York and is not currently registered. The fact that the motor vehicle which may be registered with the State of New York does not display a current license plate or displays an expired license plate shall be presumptive evidence of the fact that such motor vehicle is not currently registered.

§ 223-3. Outdoor storage prohibited.

- A. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of property within the Town of Grafton, to store or deposit, or cause or permit to be stored or deposited two or more abandoned, junked or discarded motor vehicles or parts or pieces thereof, on any private property within the Town of Grafton, unless such motor vehicles are stored or deposited in a completely enclosed building.
- B. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of any private property within the Town of Grafton, to store or deposit, or cause or permit to be stored or deposited thereon, two or more unregistered motor vehicles unless:
 - (1) Such motor vehicles are the inventory or part of the inventory of a new or used motor vehicle dealer located in compliance with the ordinances and local laws of the Town of Grafton.

- (2) Such motor vehicle is a camping, house or boat trailer otherwise stored and used in compliance with the local laws of the Town of Grafton.

§ 223-4. Notice of violation.

- A. If the provisions of the foregoing sections are believed to be violated, the Building Inspector/Code Enforcement Officer or any peace officer shall serve a written notice, either personally or by registered, certified or ordinary mail, upon the owner, occupant or person having charge of such private property, to comply with the requirements of this chapter. The Building Inspector/Code Enforcement Officer or peace officer may determine ownership of any parcel of land in the Town of Grafton 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 Building Inspector/Code Enforcement Officer or peace 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.
- B. The notice shall be in substantially the following form:

To the owner, occupant or person having charge of land within the Town of Grafton briefly described as follows:

(here describe subject property)

NOTICE IS HEREBY GIVEN that an abandoned, junked, discarded or unregistered motor vehicle(s) is/are stored or deposited on the above-described property in the Town of Grafton. This/these vehicle(s) must be removed therefrom within five days from the date of this notice; provided, however, that if this notice is served on you by publication, said motor vehicle(s) shall be removed within 10 days from the first publication date of this notice.

§ 223-5. Failure to remove vehicle.

Failure to remove the abandoned, junked, discarded or unregistered motor vehicle(s) within the periods prescribed above is a violation of this chapter.

§ 223-6. Penalties for offenses.

Violations of this chapter shall be punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both.

§ 223-7. Removal of violating vehicles.

All motor vehicles shall be removed at the owner's expense. Any person, firm or corporation who shall resist or obstruct the duly authorized agents, servants, officers and employees of the Town of Grafton in the removal and destruction of a motor vehicle by order of the Town Court of the Town of Grafton shall be subject to the fines and penalties provided herein.

Chapter 225
VEHICLES AND TRAFFIC

ARTICLE I
Vehicle Weight Limits

- § 225-1. Weight limits established.
- § 225-2. Spring season.
- § 225-3. Authority of Highway Superintendent to post limits.

ARTICLE II
Parking

- § 225-4. Parking prohibited where designated.

- § 225-5. Parking on highway prohibited.
- § 225-6. Exception.
- § 225-7. Penalties for offenses.

ARTICLE III
Through Traffic

- § 225-8. Through traffic prohibited.

[HISTORY: Adopted by the Town Board of the Town of Grafton at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

GENERAL REFERENCES

Snowmobiles — See Ch. 191.

Abandoned and unregistered vehicles — See Ch. 223.

ARTICLE I
Vehicle Weight Limits

- § 225-1. Weight limits established.

The operation of vehicles on the following roads weighing in excess of the established limit is hereby prohibited.

Name of Street	Weight Limit
North Long Pond Road	8,000 pounds per axle

- § 225-2. Spring season.

The setting of a weight limit of 10 tons shall be made on town-maintained roads during the spring thaw mud season, at times posted by the Highway Department, except with special permission of the Highway Superintendent.

§ 225-3. Authority of Highway Superintendent to post limits.

The Highway Superintendent is authorized to post town roads at a ten-ton weight limit, as determined necessary.

**ARTICLE II
Parking****§ 225-4. Parking prohibited where designated.**

There will be no parking on any town roads so marked by "no parking" signs as established by the Town Board.

§ 225-5. Parking on highway prohibited.

No motor or other vehicle of any other kind shall be allowed or permitted to park in the Town of Grafton in any manner prohibited herein:

- A. Upon any highway or town road, no person shall stop, park or leave standing any vehicle whether attended or unattended, upon the paved or main traveled part of the highway or road when it is practicable to stop, park or to leave such vehicle off such part of said highway or road, but in every event an obstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway.
- B. Upon the fire lanes on both sides of Dumbleton Road for its full length, both sides of North Long Pond Road between Route 2 and 100 yards east of the spillway on Second Pond on North Long Pond Road, and on the west side of the right-of-way between the Town Hall and the Firehouse, no person shall stop, park or leave standing any vehicle, whether attended or unattended.

§ 225-6. Exception.

This article shall not apply to the driver of any vehicle which is disabled while on the paved or main traveled portion of a highway or road in such manner and in such extent that is impossible to avoid stopping and temporarily leaving such disabled vehicles in such position.

§ 225-7. Penalties for offenses.

- A. A violation of this article is a traffic infraction and may be punished by a fine not exceeding \$125 for the first infraction and \$250 for any subsequent infraction, or by imprisonment for not more than 15 days, or by both such fine and imprisonment.
- B. All fines collected in connection with the violation of this article shall be paid to the Town of Grafton and credited to the general fund. Fines not paid within 14 days from the date of conviction shall double.

- C. Whenever any public officer finds a vehicle unattended where it constitutes an obstruction to traffic or parking is prohibited said officer is hereby authorized to provide for the removal of such vehicle to a garage or an automobile pound at the owner's expense.

**ARTICLE III
Through Traffic**

§ 225-8. Through traffic prohibited.

Through traffic shall be prohibited on the following roads. Roads shall be posted with "no through traffic" signs.

Name of Street

Owens Road

Rourke Road



APPENDIX



**DISPOSITION
LIST**



DISPOSITION LIST

The following is a chronological listing of legislation of the Town of Grafton adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The last legislation reviewed for the original publication of the Code was adopted 1-11-1999. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Town Clerk.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-1999	12-9-1999	General provisions: adoption of code	Ch. 1, Art. I



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TOWN OF GRAFTON

Established in 1807

P.O. BOX G, Grafton New York 12082
(518) 279-3565 (Voice) - (518) 279 3685 (Fax)

Email: townofgraffton@aol.com

Web: graftonny.org

*Changes made and
put into Code Book
on 3/16/08 J.F. Sawyer*

November 6, 2007

Grafton Town Code Book Holders

Re: Changes to the Town of Grafton Code


Attached are changes to the Grafton Town Code that were adopted on November 9, 2006 with Local Laws referenced. The Local Laws were filed with the New York Secretary of State in a timely manor in accordance with Municipal Town Law.

Please update your Code Books as follows:

1. Remove pages vii and viii from the "Table of Contents" and replace with new pages vii and viii that references the new Chapter 90.
2. Add Chapter 90 (Right to Farm Law) to your Code Book. This is a new chapter added to our Code by Local Law #3 of 2006.
3. Remove Chapter 204 (Subdivision of Land) pages 20401 through 20412 and replace with the new Chapter 204 (Subdivision of Land) pages 20401 through 20409. Ensure the new chapter references the amended Code that took place on November 6, 2006 by L.L. No. 2 of 2006 under the "History" section below the Section references on the first page.

Please feel free to contact me at 518-279-3565 with any questions concerning these changes.

Sincerely,


Tyler F. Sawyer
Town Supervisor



Town Supervisor
TYLER F. SAWYER

Council Members
MARGARET CLAUS
MICHAEL CRANDALL
EDWARD FREDRICKS III
ALLISON KIRCHNER

Town Clerk
SUZANNE PUTNAM

Town Justices
DENNIS MCGURN
REBECCA SNYDER

Superintendent of Highways
HERBERT S. HASBROCK III

Assessors
JOSEPH BLY
CHARLES HAMILL
WILLIAM MIDDLETON

Tax Collector
MARY GENTNER

Attorney to the Town
CRAIG CRIST

Building Inspector/Code Enforcement
THOMAS V. WITHCUSKEY

Planning Board Chairperson
BARBARA MESSENGER

Dog Control Officer
MARTIN SAWYER



TOWN OF GRAFTON

Established in 1807

P.O. BOX G, Grafton New York 12082
(518) 279-3565 (Voice) - (518) 279 3685 (Fax)
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Town Supervisor
ALLISON KIRCHNER

Council Members
MARIE CLAUS
MICHAEL CRANDALL
EDWARD FREDRICKS III
BARBARA MESSENGER

Town Clerk
SUZANNE PUTNAM

Town Justices
DENNIS MCGURN
REBECCA SNYDER

Superintendent of Highways
HERBERT S. HASBROCK III

Sole Assessor
JON C. SURPRISE
Assessor Clerk
HELEN HEMENDINGER

Tax Collector
MARY GENTNER

Attorney to the Town
SALVATORE FERLAZZO

Building Inspector/Code Enforcement
THOMAS V. WITHCUSKEY

Planning Board Chairperson
THOMAS V. WITHCUSKEY

Log Control Officer
MARTIN SAWYER

April 3, 2011

Grafton Town Code Book Holders

Re: Changes to the Town of Grafton Code

Attached are the changes to the Grafton Town Code as adopted by Local Laws 1, 2, & 3 of 2008; Local Laws 1 & 2 of 2009 and Local Law 1 of 2010.

Please update your code book as follows:

Remove Chapter 5 and replace with updated Chapter 5
Remove Chapter 100 and replace with updated Chapter 100
Remove Chapter 125 and replace with updated Chapter 125
Remove Chapter 204 and replace with updated Chapter 204
Remove Chapter 209 and replace with updated Chapter 209
Insert Chapter 214 (Wind Energy Law) directly behind Chapter 213
Replace the Table of Contents with updated Table of Contents

If you have any questions or concerns regarding the changes, please feel free to contact me.

Sincerely,

Allison Kirchner
Town Supervisor

