

Agenda

Town Board Work Session

April 10, 2024

5:00 PM

1. Virtual Meeting Instructions - April 10, 2024

Documents:

[4-10-24 TOWN BOARD WORK SESSION INSTRUCTIONS.PDF](#)

2. Pledge Of Allegiance

3. Town Code Legal Analysis

Attached are the documents that are being handed out to the Town Board Members for review.

Documents:

[MANLIUS T NY MA1592 EDITORIAL AND LEGAL ANALYSIS - FINAL DRAFT.PDF](#)
[GENERAL CODES DECISIONS.PDF](#)
[CODE LEGISLATION ISSUES.PDF](#)
[FEES AND PENALTIES.PDF](#)
[FAMILY DEFINITION.PDF](#)

4. Adjournment



April 10, 2024 – 5:00PM

Town Board Work Session Virtual Meeting Instructions

The easiest way to participate in the meeting is to use the link provided below. The meeting will be conducted on the ZOOM platform as a webinar. Please make sure that when you complete your attendee registration you enter your full name.

Click on the link or enter the meeting URL web address as listed below.

<https://us02web.zoom.us/j/82199798852?pwd=MUsvZGR5azgrZk41R29JT0h3TmJXdz09>

Password to join when prompted:

Password: **731996**

Enter your email address and name and join the meeting.

Join by telephone by dialing the number below:

(929) 436-2866

When prompted to enter the Webinar ID, use the number below followed by #

Webinar ID: 821 9979 8852 Press # again to skip the personal id and enter the password below followed by #

Password: **731996**

If this is your first time joining a ZOOM meeting you may practice using ZOOM meeting platform at

<https://zoom.us/test>.



A Member of the ICC Family of Companies

Editorial and Legal Analysis

PREPARED FOR:

Town of Manlius, New York

PROJECT EDITOR:

Dena A. Shortino

dshortino@generalcode.com | 800.836.8834

Return to General Code by:

December 27, 2019

Contents

Introduction.....3

General Decisions6

 Binders.....6

 Penalties.....6

 Fees.....7

 Code Adoption Process7

Part I, Administrative Legislation.....8

 Ch. 1, General Provisions8

 Ch. 7, Defense and Indemnification9

 Ch. 11, Enforcement.....9

 Ch. 14, Ethics, Code of.....10

 Ch. 21, Manger12

 Ch. 23, Mutual Aid.....12

 Ch. 25, Procurement Policy13

 Ch. 27, Retirement Incentive Program13

 Ch. 32, Traffic Violations Bureau14

 Ch. 34, Tree Commission14

Part II, General Legislation.....15

 Ch. 44, Animals15

 Ch. 48, Assemblies, Public19

 Ch. 55, Bingo.....20

 Ch. 59, Building Construction and Fire Prevention.....21

 Ch. 63, Buildings, Unsafe.....23

 Ch. 66, Critical Environmental Area26

 Ch. 69, Fireworks26

 Ch. 72, Flood Damage Prevention.....27

 Ch. 75, Games of Chance27

 Ch. 83, Littering.....28

 Ch. 86, Noise Control28

 Ch. 89, Peddling and Soliciting29

 Ch. 92, Picketing31

 Ch. 95, Plumbing.....31

 Ch. 96, Professional Fees32

 Ch. 99, Records32

Town of Manlius, NY

Ch. 104, Sewers..... 33

Ch. 113, Snowmobiles 34

Ch. 119, Solid Waste..... 35

Ch. 123, Streets and Sidewalks 35

Ch. 125, Storm Sewers..... 37

Ch. 126, Stormwater Management and Erosion and Sediment Control 37

Ch. 127, Subdivision of Land 37

(New Ch. 129) Small Cell Wireless Deployment Requirements 40

Ch. 131, Swimming Pools..... 42

Ch. 134, Taxation..... 43

Ch. 139, Vehicles and Traffic 53

Ch. 147, Water 54

Ch. 155, Zoning..... 55

Samples Requested by the Town..... 62

 Chickens..... 62

 Food Trucks 62

 Storage Pods..... 63

 Short-Term Rentals (Air BNB and Luxury Camping)..... 63

 Drones 64

 Fencing/Lighting..... 64

 Lighting Intensity in Residential Area 65

Wrap Up 66

 Completeness Check..... 66

 Final Review 66

 Sending Materials..... 66

INTRODUCTION

Editorial and Legal Analysis

This Editorial and Legal Analysis document is an in-depth, chapter-by-chapter review of the Town’s legislation. We ask questions on each chapter and provide the Town with an opportunity to make revisions to its legislation. This Editorial and Legal Analysis is a workbook, and it has “Decision” boxes to simplify the Town’s review process.

This Editorial and Legal Analysis workbook has been prepared on the basis of a critique of the Town’s existing legislation, including, as much as possible, a comparison with statutory provisions and similar legislation from other municipalities, to identify conflicts and ambiguities in order to bring consistency and order to the general body of the Town’s law.

The Town should use its current Code in conjunction with this Analysis, in print and/or the on-line version. The Code is current through L.L. No. 2-2019. In the comments that follow, links to Code chapters and/or articles in *eCode360* are included within the text of this Analysis.

<https://www.ecode360.com/MA1592>

Legal Advice

Please note that it is not the intent of General Code to give legal advice or opinions by way of the Editorial and Legal Analysis, but rather to provide as much information as possible to enable municipal officials to make necessary decisions. Any questions as to validity or legal sufficiency of legislation, or as to interpretation of cases and statutes, will properly remain the responsibility of your Municipal Attorney.

Due Date for Completion of Editorial and Legal Analysis Workbook

The review and revision phase of the project usually requires the most intensive work on the part of the municipal officials. The Town will have **100 business days (by December 27, 2019)** to return this completed Editorial and Legal Analysis and any other revisions to the Code. When all answers are received from the municipality, General Code will schedule preparation of the Draft of the final Code.

Review by Town

This Editorial and Legal Analysis is set up as a workbook. Where the phrase “satisfactory as written” or “no changes are recommended” is used, the editor has found that subject to be generally suitable as written. However, those comments do not preclude revisions to any chapter based on the experiences of the Town. We encourage the Town officials to review all chapters of the Manuscript, using this Editorial and Legal Analysis as a guide, paying particular attention to the following:

- ◆ Are certain provisions no longer enforced?

Town of Manlius, NY

- ◆ Is the legislation the appropriate regulation of the subject matter or would such provisions be enforced under another law or statute?
- ◆ Are the procedures described accurate or should they be changed to reflect current practices? Are there obsolete procedures that can be deleted?
- ◆ Have problems in enforcement of particular provisions arisen in the past? Could the provisions be made more specific?
- ◆ Are the titles of officials and departments up-to-date? Are there other administrative terms that should be changed?
- ◆ Are the amounts of fees and bonds adequate? Will they cover the Town's cost in administering the legislation?

Our experience indicates that the Town may find it helpful to designate one person or a small committee to perform the detailed review work and to report back to the governing body with specific recommendations and any questions needing some type of policy decision. Often at this point the completed workbook is passed on to the Municipal Attorney for his or her review of the decisions. As the governing body will adopt the Code following final publication, we recommend that the governing body has preapproved all changes.

Please make a copy of the completed Editorial and Legal Analysis and any accompanying documents for the Town's internal records and send General Code the original copies.

Extent of Decisions

It is not necessary for the Town to answer every single question in the Editorial and Legal Analysis. There may be some subjects that require further time for review and revision. You have the option of printing existing legislation as is, and revising it in the future. The aim should be to answer as many questions as possible within the time frames.

Sample Legislation

Sample legislation adopted by other municipalities is always available for review and comparison purposes. Contact us for instructions on how you can use the Multicode Search feature in eCode360 to browse Codes from other municipalities.

It is important to note that **sample legislation is unlikely to meet the Town's requirements without some sort of revision**. The purpose of sample legislation is to give officials an opportunity to see what other municipalities have enacted on certain subject matters and to provide a basis for legislation that the governing body may wish to adopt. Sample legislation should be thoroughly reviewed and revisions made to bring the samples in line with your community's needs before adoption.

Adoption of Samples. Sample legislation may be adopted via the Code adoption process. However, if a particular subject is controversial or requires in-depth research and discussion, we advise that you pursue its adoption separate from the Code project (after the publication of the Code).

We have included links to sample topics previously requested by the Town at the end of this Editorial and Legal Analysis.

Process/Next Steps

Once the Town has completed its review of the Editorial and Legal Analysis and either indicated all desired changes in the Editorial and Legal Analysis and/or attached text changes separately, then General Code will schedule the next production stage, which is the preparation of the Draft. All desired changes from the Town should be submitted prior to preparation of the Draft. We will update the Code content to incorporate the Town's changes and insert any recently adopted local laws. The Draft marks the completion of editorial work and the stopping point for new legislation. After this stage in the project, revisions (beyond those questions we pose for clarity) are chargeable. Any legislation submitted after this point will be incorporated into the Code through routine supplementation following Code publication.

The Manuscript will be copyread, and titles, cross-references and internal references will be inserted and updated. We will submit the Draft of the new Code to the Town; note that we may have a few questions for the Town at that time. Review of the Final Draft is intended to be a quick step (not another cycle for major revisions), and the Town has 45 business days to respond to questions, if any, and authorize final publication.

Next, the Code will be formatted, indexed and prepared for printing. We will deliver the Town's five Code books. In addition, we will supply the Town with a local law to adopt the new Code; that local law will specify all substantive changes that the Town authorized during the course of the project. The electronic version of the Code (eCode360[®]) will be updated, either upon publication or following adoption of the Code.

GENERAL DECISIONS

Binders

- A. Binder colors. Please choose binder and lettering colors for your new Codes. Binder color options may be reviewed on the Web at <http://www.generalcode.com/codification/binder-colors>.

Decision:

Cover Color (choose one):

- Blue
- Green
- Burgundy
- Gray
- Black
- Brown

Cover Lettering (choose one):

- White
- Gold
- Silver

- B. Seal or Logo. If the Town can provide us with a clear, crisp, black-and-white copy of the Town Seal, or the current Logo, we will include it on the Code binders.

Decision:

- Clear, crisp, black-and-white copy of the Seal or Logo is attached.
- Electronic image of Seal or logo (in .tiff or .jpeg format) has been e-mailed to ezsupp@generalcode.com.
- Seal or logo is not available for reproduction on binders.

Penalties

Regarding penalties, the Town would seem to be limited only by the Municipal Home Rule Law, which authorizes legislative bodies of local governments to prescribe that offenses constitute misdemeanors, violations or traffic infractions.

Except where statutory provisions exist for certain types of regulations (such as vehicles and traffic), we suggest that the penalty provisions generally be standardized to designate offenses as violations, punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both. If a penalty at the misdemeanor level is desired for certain offenses, we recommend that those provisions be punishable by a maximum fine of \$1,000 or by imprisonment for not more than one year, or both. **[Reference: Penal Law §§ 55.10 and 80.05.]** Any legislation for which specific penalties are provided by statute should be revised so as to conform to those statutory provisions.

Where the Town's penalty provisions do not reflect standardized language or are not in compliance with statute, we have made specific mention in the chapter-by-chapter review below.

Fees

This Editorial and Legal Analysis also provides a good opportunity for the Town to review fees for licenses, permits, inspections, hearings, etc., as to possible updating. All fees should be reviewed to ensure that they adequately reflect the current administrative and enforcement costs to the Town. We have addressed occurrences of specific fees in the chapter-by-chapter review below.

Code Adoption Process

General Code will provide all documents to assist the Town in the Code adoption process. The new Town Code should be formally adopted as soon as possible after delivery of the published volumes in order to establish the Code as a permanent, practical and enforceable system of law.

We will prepare a draft Code Adoption local law and submit this material to the Town for review and approval. This local law will contain provisions designed to repeal all prior ordinances and local laws of a general and permanent nature not contained in the Code; save certain classes of local laws from repeal, such as annexations, street openings or vacations, purchases or sales of property, appropriations and bond laws; ratify nonsubstantive changes to legislation in the Code; prohibit tampering with the Code; and provide blanket repealer and when effective sections.

PART I, ADMINISTRATIVE LEGISLATION

Ch. 1, General Provisions

Art. I, Adoption of Code

L.L. No. 1-1996

<https://www.ecode360.com/11047225>

This article contains the law that adopted the current Code in 1996. Legislation to adopt the new Code and to enact revisions will be forwarded to the Town soon after the Code is delivered. It will be included in this chapter upon adoption, replacing the prior Code Adoption. We encourage the Town to adopt the new Code as soon as possible.

Art. II, Terminology

3-13-1991 as Ch. 1, §§ 1.2 and 1.3, of the 1991 Code

<https://www.ecode360.com/11047254>

Board to Review Terminology in this Section to Ensure Definitions are Up to Date

This list of definitions has not been revised since at least 1991. Does the Town refer to these definitions? If they are to be retained, although they are relatively general terms, we suggest they be reviewed by the Town to determine whether any revisions are desired.

Decision:

Retain as written.

Revise as follows:

Delete Article II.

Art. III, General Penalty

3-13-1991 as Ch. 1, § 1.10, of the 1991 Code

<https://www.ecode360.com/11047291>

This article establishes a general penalty for a violation of the Code where no other penalty exists of a maximum of \$250, up to 30 days imprisonment, or both.

Decision:

Standardize penalty at the violation level of \$250/15 days.

Revise as follows: _____

Retain as written.

Ch. 7, Defense and Indemnification

3-13-1991 as Ch. 300 of the 1991 Code

<https://ecode360.com/11047316>

This chapter provides for the defense and indemnification of Town representatives in any civil action or proceeding. It appears suitable as written.

Note that many municipalities choose to confer the benefits of § 18, Defense and indemnification of officers and employees of public entities, of the Public Officers Law, upon officers and employees, although the Town is not required to do that.

Decision:

Retain as written.

Revise as follows:

Ch. 11, Enforcement

Art. I, Codes Enforcement Officers

3-13-1991 as Ch. 3, Art. I, of the 1991 Code

<https://ecode360.com/11047360>

A. Section 11-1A could be clarified as follows:

*There is hereby established the positions of Codes Enforcement Officers to enforce the ordinances, **and** local laws **of the Town** and **the** laws of the State of New York and rules and regulations adopted pursuant thereto or the portions thereof as hereinafter provided.*

Decision:

Revise as indicated.

No revision desired.

Town of Manlius, NY

- B. Section 11-2 specifies the Code chapters and provisions for which the Code Enforcement officer is responsible. The Town should review this section to ensure it is accurate. Additionally, the wording is somewhat repetitive, and we suggest the following revision:

§ 11-2. Powers and duties of Codes Enforcement Officer.

~~A. The Codes Enforcement Officer as designated by the Town Board shall enforce Chapter 72, Flood Damage Prevention, and Chapter 155, Zoning, and shall have all the powers and duties specified for the Enforcement Officer by said chapters.~~

~~B.A.~~ The Codes Enforcement Officer shall be responsible for the enforcement of the New York State Uniform Fire Prevention and Building Code.

~~B.~~ The Codes Enforcement Officer shall **enforce** ~~be responsible for~~ and **shall** have all the **powers and** duties of the Enforcement Officer specified in the following chapters of the Code:

(1) Chapter 59, Building Construction and Fire Prevention.

(2) Chapter 63, Buildings, Unsafe.

(3) Chapter 72, Flood Damage Prevention.

~~(4)~~ Chapter 131, Swimming Pools.

(5) Chapter 155, Zoning.

~~C.~~ The Codes Enforcement Officer shall also be responsible for enforcing the applicable provisions of the Multiple Residence Law of the State of New York and Chapter 127, Subdivision of Land.

~~D.~~ The Codes Enforcement Officer shall have all the other duties, powers and obligations set forth for such officer in this Code not otherwise specified in this section and all other duties, powers and obligations necessary to accomplish the purposes of his office.

Decision:

Revise section to read as set forth above.

Revise as follows:

No revision desired.

Ch. 14, Ethics, Code of

3-13-1991 as Ch. 4 of the 1991 Code

<https://ecode360.com/11047375>

- A. The definitions in § 14-2 could be revised as follows (see the state law definitions in General Municipal Law § 800):

*INTEREST – A pecuniary or material benefit directly or indirectly accruing to a municipal officer or employee **as a result of a contract with the Town.** For the*

Currently Under Review by the Board

purposes of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of:

A. His/Her spouse, minor children and dependents, except a contract of employment with the Town;

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; and

D. A corporation any stock of which is owned or controlled directly or indirectly by such officer or employee.

MUNICIPAL OFFICER OR EMPLOYEE – An officer or employee of the Town of Manlius, whether paid or unpaid, including members of any administrative board, commission, committee or other department, unit, or agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer firefighter or civil defense volunteer, except a ~~chief engineer or assistant chief engineer~~ fire chief or assistant fire chief.

Decision:

Revise as suggested.

Revise as follows:

Make no changes.

B. Section 14-3A could be revised to increase the prohibited gift value from \$25 to \$75, which is the amount currently found in state law (General Municipal Law § 805-a).

Decision:

Revise the amount to \$75.

Revise as follows: _____

No revision desired.

C. In § 14-3A we will make the following correction: “...could reasonably be expected to influence him in the performance of his official duties or was intended as a ~~reward~~ reward for any official action on his part.”

D. Section 14-6 could be revised to add the following sentence; see General Municipal Law § 806:

Town of Manlius, NY

*The Supervisor shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the town within 30 days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. **Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement of provisions thereof.***

Decision:

- Add the sentence as indicated above.
- No revision desired.

Ch. 21, Manger

3-27-2002 by L.L. No. 1-2002

<https://ecode360.com/11047395>

This chapter establishes the position of Town Manager and the powers and duties of the position. No changes are recommended.

Decision:

- Retain as written.
- Revise as follows: _____

Ch. 23, Mutual Aid

6-24-1992 by L.L. No. 1-1992

<https://ecode360.com/11047416>

This chapter outlines the process by which a municipality may grant or request police assistance from another municipality as authorized by General Municipal Law, § 209-m. No changes are recommended.

Decision:

- Retain as written.
- Revise as follows: _____

Ch. 25, Procurement Policy

Art. I, Best Value Basis

11-5-2014 by L.L. No. 4-2014

<https://ecode360.com/30331571>

The definition of "best value" is found in State Finance Law § 163, which was amended in 2015 to include service-disabled veteran-owned business enterprises. Section 25-3 could be revised as follows:

"Best value" shall mean the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses or certified minority- or women-owned business enterprises as defined in (New York State) Executive Law § 310(1), (7), (15) and (20), or service-disabled veteran-owned business enterprises as defined in Subdivision 1 of § 369-h of the Executive Law, to be used in evaluation of offers for awarding of contracts for services.

Decision:

Revise as indicated above.

Revise as follows: _____

No revision desired.

Ch. 27, Retirement Incentive Program

Verified with Ann

8-25-2010 by L.L. No. 2-2010

<https://ecode360.com/14938480>

The open period for participation in this program was for 90 days in 2010. Is it necessary to retain this chapter in the Code?

Decision:

Delete this chapter.

Retain as written.

Ch. 32, Traffic Violations Bureau

3-13-1991 as Ch. 60, Art. VI, of the 1991 Code

<https://ecode360.com/11047422>

No changes are recommended.

Decision:

Retain as written.

Revise as follows: _____

Ch. 34, Tree Commission

3-27-2002 by Ord. No. 2002-2

<https://ecode360.com/11047433>

This brief chapter provides for the establishment of a Tree Commission. If still in existence, it can be retained as written.

Decision:

Retain as written.

Revise as follows: _____

This was already re-written Local Law 15-2023 -Tree Committee is looking to make changes - Councilor Bollinger will communicate with Committee

PART II, GENERAL LEGISLATION

Ch. 44, Animals

12-8-2010 by L.L. No. 4-2010

<https://ecode360.com/11047437>

- A. Section 44-2 defines the term DOG CONTROL OFFICER, however both “Dog Control Officer” and “Animal Control Officer” are used throughout this chapter. Should the title be made consistent?

Decision:

- Revise all instances of “Animal Control Officer” to “Dog Control Officer.”
- Revise as follows: _____
- No revision desired.

- B. Section 114, Dog Control Officers, of the Agriculture and Markets Law, was renumbered as § 113 by L.2010, c. 59, pt. T, § 8, effective January 1, 2011. We will update this reference in § 44-4 during final editing.

- C. Section 109 and 110 of the Agriculture and Markets Law were amended in 2005 to provide that at the option of the governing board of the municipality, a dog license may be issued or renewed for a period not to exceed three years. This provision no longer exists in the statute; should § 44-5D be revised to delete “...two years, or three years, at the option of the owner...”?

Decision:

- Delete the above indicated wording.
- No revision desired.
- Revise as follows: _____

- D. In § 44-5E, it appears the correct reference is to Subsection H, not Subsection I. Please confirm.

Decision:

- Revise the reference to Subsection H.
- Retain as written.

- E. Section 44-10, Seizure, redemption and disposition. Compare this section to § 44-13, which states “The seizure of dogs pursuant to this article, the redemption period, fees for

Town of Manlius, NY

impoundment, notice of seizure and other procedures for the disposition of dogs is governed by § 118 of the Agriculture and Markets Law, except that the minimum redemption fee shall be \$50 and the seized dog shall not be released to the owner until any veterinary bills have been paid.” Is it necessary to retain both sections? If so, should both sections read the same so as to avoid confusion? Is any revision desired?

Decision:

Revise § 44-10 to read in its entirety as set forth in § 44-13. [Skip to Question F]

Revise as follows:

Retain §§ 44-10 and 44-13 as-is.

If § 44-10 is retained:

- (1) Section 44-10D provides that if notification of seizure is personally given, such animal shall be held for a period of five days after the date the notice is personally served. Agriculture and Markets Law § 117, Subdivision 6 provides that such a dog shall be held for a period of seven days after day of notice is personally given. The Town is authorized by statute to set its own time periods.

Decision:

Revise the time frame from five days to seven days in § 44-10D.

Revise as follows: _____

Make no change.

Side Note: Spoke with Dog Control Officer: Stated They Currently Hold Dogs for 15 Days

- (2) Section 44-10E sets the redemption fee at \$50. Is any revision desired? The Town is authorized to set the fee in any amount by ordinance or local law.

Decision:

Revise as follows: _____

Make no change.

- (3) Section 44-10F reads in part “An owner shall forfeit title to any animal unredeemed at the expiration of the appropriate redemption period, and the animal shall then be made available for adoption, or euthanized subject to the provisions of Subdivisions 2-a, 2-b, 2-c and 2-d of § 374 of the New York Agriculture and Markets Law...” Note that Subdivisions 2-a to 2-e were repealed by L.2009, c. 479, § 1, eff. Oct. 9, 2010, and the reference in § 117 is now simply to § 374.

Decision:

Revise as follows: “An owner shall forfeit title to any animal unredeemed at the expiration of the appropriate redemption period, and the animal shall then be made available for adoption, or euthanized subject to the provisions of ~~Subdivisions 2 a, 2 b, 2 c and 2 d~~ of § 374 of the New York Agriculture and Markets Law...”

Other: _____

- F. Penalties. The Town may wish to consider if it makes sense to replace the various penalty sections throughout this chapter with one penalty section, so as to avoid confusion. For example:

§ 44-XX. Penalties for offenses.

Unless otherwise provided in the Agriculture and Markets Law, any person who violates any of the provisions of this chapter shall be guilty of a violation pursuant to the Penal Law and, upon conviction thereof, shall be subject to a fine of not more than \$250, imprisonment for up to 15 days, or both such fine and imprisonment.

Decision:

Delete the following penalty sections and replace with one penalty section with the wording suggested above: §§ _____

Skip to Question G

Revise as follows:

Retain all penalty sections.

If all penalty sections are retained:

- (1) Section 44-11. This section provides that a person who violates any of the provisions of Article II shall be guilty of a violation pursuant to the Penal Law; Subsection B provides the following penalty: \$50 for the first offense, \$100 for the second offense, \$250 for the third offense.

Agriculture and Markets Law § 118 states “A violation of this section shall be punishable...where prosecuted pursuant to the penal law, by a fine of not less than \$25, except that (i) where the person was found to have violated this section or former article seven of this chapter within the preceding five years, the fine may be not less than \$50, and (ii) where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not less than \$100 or imprisonment for not more than 15 days, or both;”

Town of Manlius, NY

Decision:

Revise § 44-11B as follows:

Retain § 44-11B but add “Except as otherwise provided in the Agriculture and Markets Law, ...” to the beginning of the subsection.

No revision desired.

(2) Section 44-16 provides that a person who violates any of the provisions of Article III shall be guilty of a violation pursuant to the Penal Law; Subsection A provides the violation will be punishable as provided in § 44-22 (which is penalties for dangerous dogs); however Subsection C provides the following penalty: \$50 for the first offense, \$100 for the second offense, \$250 for the third offense. Is any revision desired? It is unclear which penalties apply to a violation of Article III. If the penalty in Subsection C applies to only certain sections of this article, that could be added.

Decision:

Revise § 44-16 as follows:

No revision desired.

(3) Section 44-22A(1) contains penalties of no less than \$50 or more than \$500 and/or up to 15 days in jail; is any revision desired?

Decision:

Revise as follows: _____

No revision desired.

(4) Section 44-26A contains penalties of \$50 for the first offense, \$100 for the second offense, \$250 for the third offense; is any revision desired?

Decision:

Revise as follows: _____

No revision desired.

G. Sections 44-11C, 44-16D, 44-22A(2) and 44-26B establish a fee of \$15 for the issuance of a summons to enforce any section of this article.

Decision:

- The penalty sections are being replaced with one section; the sentences pertaining to the fee for issuing a summons should be deleted.
- The penalty sections are being replaced with one section; the sentences pertaining to the fee for issuing a summons should be retained with the penalty section. It should read as follows:
 - The Town hereby establishes a fee of \$_____ for the issuance of a summons to enforce any section of this chapter.*
 - There shall be a fee as set by resolution of the Town Board for the issuance of a summons to enforce any section of this chapter.*
- Revise as follows: _____
- No revision desired.

H. Section 44-13 establishes a minimum redemption fee of \$50; is any revision desired?

Decision:

- Revise as follows: _____
 - No revision desired.
- All sections of this Chapter can be superseded by a contract with an outside agency for dog control services. This includes any additional services and regulations provided within the contract.

I. Section 121, Dangerous dogs, of the Agriculture and Markets Law, was renumbered as § 123 by L.2010, c. 59, pt. T, § 8, effective January 1, 2011. We will update this reference in § 44-18 during final editing.

Ch. 48, Assemblies, Public

3-13-1991 as Ch. 166 of the 1991 Code

<https://www.ecode360.com/11047478>

This chapter regulates the assembly of 100 or more persons at temporary outdoor public gatherings for the furnishing of live entertainment or the amplification of music through electronic means, whether recorded or live.

A. Section 48-10 contains the following permit fees: \$25 where the maximum number of persons to assemble shall be 250 persons or less; \$50 between 250 and not over 1,000 persons; and \$100 in excess of 1,000 persons. Is any revision desired?

Decision:

- Revise as follows: _____

Board to review adding a definition of Public

Town of Manlius, NY

No revision desired.

B. Section 48-11D contains a penalty of not more than \$500 or imprisonment not to exceed one year, or both. Subsection B specifies that a violation of this chapter shall be a misdemeanor. Is any revision desired?

Decision:

Standardize at the misdemeanor level maximum of \$1,000/one year.

Revise as follows: _____

No revision desired.

Ch. 55, Bingo

3-13-1991 as Ch. 12 of the 1991 Code

<https://www.ecode360.com/11047519>

This chapter, authorizing and controlling bingo within the Town, has not been amended to reflect the current provisions of the controlling statutes; e.g. the value of prizes in § 55-3E and F do not match those in § 479 of General Municipal Law. We note that this chapter could be replaced by legislation which simply authorizes the conduct of bingo games in the Town. This would eliminate the need for future revision of this chapter. Such legislation could read as follows:

§ 1. Conduct authorized.

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

§ 2. Sunday games. (Optional if authorization of Sunday games is desired)

Any game of bingo conducted within the Town pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as "Sunday," after 1:00 p.m.

Decision:

Revise this chapter so that it contains only the two sections above.

Revise as follows:

No revision desired.

Note that if the Town decides to replace Chapter 55 with the above-noted provisions, state law requires some additional procedures. Executive Law § 439-a states that “*Each municipality in which the bingo licensing law shall be adopted shall file with the commission a copy of each local law or ordinance enacted pursuant thereto within 10 days after the same has been approved by a majority of the electors voting on a proposition submitted at a general or special election, or within 10 days after the same has been amended or repealed by the common council or other local legislative body, and on or before February 1 of each year, and at any other time or times which the commission may determine, make a report to the commission of the number of licenses issued therein under the bingo licensing law, the names and addresses of the licensees, the aggregate amount of license fees collected, the names and addresses of all persons detected of violating the bingo licensing law, this law or the rules and regulations adopted by the commission pursuant hereto, and of all persons prosecuted for such violations and the result of each such prosecution, the penalties imposed therein during the preceding calendar year, or the period for which the report is required, which report may contain any recommendations for improvement of the bingo licensing law or the administration thereof which the governing body of the municipality shall deem to be desirable.*”

Ch. 59, Building Construction and Fire Prevention

Retain as written in
2022 - Entire Chapter

3-13-1991 as Ch. 26 of the 1991 Code

<https://www.ecode360.com/11047534>

Although this chapter is not based on the state model law, it does contain many of the same/similar provisions. We note that the model law was updated in 2018: (from DOS website) "August 15, 2018: Revised subdivision (a) of Section 10, added a new Section 13 entitled Condition Assessments of Parking Garages, renumbered Sections 13 through 19 accordingly, and revised new Section 14, to reflect the provisions of amended 19 NYCRR section 1203.3, relating to Condition Assessments of Parking Garages. Revised any references to the previously numbered Sections 13 through 19 to reflect the appropriate new renumbered Section. Revised subdivisions (b) and (d) of Section 3 by changing the phrase “State Fire Administrator” to “Department of State.”

The model law, including the 2018 revisions, can be viewed here:

https://www.dos.ny.gov/DCEA/part_1203_Locallaw.html

Town of Manlius, NY

Decision:

- The Town has customized and adopted the most updated version of the State model law and it is included herewith to replace this chapter (provide new law). **[Skip to Chapter 63]**
- Retain this chapter.

If this chapter is retained:

- A. It appears this chapter was amended in 2016 to include specific references to the International Residential Code. Note that 19 NYCRR Part 1219 does include the Residential Code, and we are unsure as to the necessity of referring to it specifically.

Decision:

- Revise as follows:
- No revision desired.

- B. Definitions, § 59-1B.

- (1) The definition of CODE ENFORCEMENT OFFICER refers to *the Code Enforcement Officer appointed pursuant to § 155-3*, which is the definition section of the Zoning Chapter. The definition of CODE ENFORCEMENT OFFICER in that section does not specifically describe the appointment of the officer. Could this definition simply be revised to refer to § 59-3, Appointment and qualifications of Codes Enforcement Officer?

Decision:

- Revise as follows: “CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to ~~§ 155-3 of the Town of Manlius Code~~ **§ 59-3 of this chapter.**”
- Revise as follows: _____
- No revision desired.

- (2) In the definition of TEMPORARY CERTIFICATE we will correct the reference to § 59-17 to § 59-19.

- C. Section 59-9F refers to areas of public assembly defined in 9 NYCRR Part 606. We are unable to confirm this reference.

Decision:

- Revise as follows: _____
- No revision desired.

- D. In accordance with the current state model law and the Fire Code itself, it appears the following revision should be made to § 59-21A(1)(a):

Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in ~~Table 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1 Tables 5003.1.1(1), 5003.1.1(2), 5003.1.1(3), 5003.1.1(4) of the 2015 edition of the International Fire Code (a publication currently incorporated by reference in 19 NYCRR Part 1225):~~

Decision:

- Revise as indicated above.
- Other: _____

- E. Section 59-28C authorizes a civil penalty of not more than \$250. Note that the state model law sets this civil penalty at not more than \$200. Is any revision desired?

Decision:

- Revise the civil penalty as follows: _____
- No revision desired.

Ch. 63, Buildings, Unsafe

Board Review with Tom

3-13-1991 as Ch. 33 of the 1991 Code

<https://www.ecode360.com/11047726>

- A. A definition of UNSAFE BUILDING OR STRUCTURE could be added to this chapter. For example:

UNSAFE BUILDING OR STRUCTURE -- Any building or structure or portion thereof which because of its structural condition, is or may become dangerous or unsafe to the public, and may include, without limitation, any or all of the following:

- A. Units open at the doorways or accessible by and a source of attraction to minors under 18 years of age, as well as to vagrants and other trespassers;*
- B. Units which may become a place of rodent infestation, or infestation by other insects or pests;*
- C. Units consisting of debris, rubble or parts of buildings left on the ground after*

Town of Manlius, NY

- demolition, reconstruction, fire or other casualty; and/or*
- D. *Units presenting any other danger to the health, safety, morals and general welfare of the public.*

OR*UNSAFE BUILDING OR STRUCTURE:*

- A. *Buildings or other structures which have any of the following defects:*
- (1) *Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.*
 - (2) *Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of nonsupporting enclosing or outside walls or covering.*
 - (3) *Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.*
 - (4) *Those which have been damaged by fire, wind, snow load or other causes so as to have become dangerous to the life, safety and general welfare of the residents of the Town of Manlius.*
 - (5) *Those which have become or are so dilapidated, decayed, unsafe or unsanitary that they are unfit for occupation by humans or animals or for use for storage.*
 - (6) *Those buildings intended or used for human occupation that are inadequate to protect the health, safety and general welfare of human residents living therein.*
 - (7) *Those buildings that lack adequate facilities for ingress and egress in case of fire or other emergency or those having insufficient stairways, elevators, fire escapes or other means of escape.*
 - (8) *Those which have parts thereof which are so attached that they may fall and injure persons on the property or members of the general public or cause damage to other property.*
 - (9) *Those buildings which violate the provisions of the New York State Uniform Fire Prevention and Building Code, the Energy Code of New York State, the Zoning Law of the Town of Manlius, and any other applicable laws of the State of New York, County of Onondaga or Town of Manlius.*
 - (10) *Any building which remains vacant and unattended continuously for a period of one year or longer, without adequate safeguards to prevent unauthorized entry.*
- B. *This Code provision shall be applicable to all properties in the Town of Manlius, whether existing at the time of the adoption of this provision or constructed thereafter.*

Decision:

- Include the first sample definition.
- Include the second sample definition.
- Include the following definition:

- No definition desired.

B. Section 63-4E, pertaining to the hearing, could be clarified as follows:

E. ~~A notice of public hearing,~~ **The time and place of the hearing to be held before the Town Board, at which hearing the owner or occupant shall have the right to contest the order and findings of the Town Board.**

Decision:

- Revise as indicated above.
- Revise as follows:

- No revision desired.

C. A section pertaining to the hearing could be added. For example:

§ 63-X. Hearing.

The Town Board shall conduct the public hearing at the time and place specified in the notice to repair or remove, and may adjourn the hearing from time to time until all interested parties are heard and until the hearing is completed. At the conclusion of the hearing, the Town Board shall determine by resolution to:

- A. Revoke the order to repair or remove;*
- B. Modify the order; or*
- C. Continue and affirm said order and direct the owner or other persons to complete the work within the time specified in the order or by such other time as shall be determined by the Town Board.*

Decision:

- Add the above wording as a new section to this chapter.
- No revision desired.

Town of Manlius, NY

- D. We often see provisions included in these types of chapters pertaining to abatement of emergency situations. For example:

§ 63-X. *Emergency cases.*

Where it reasonably appears that a building or structure presents a clear and imminent danger to the life, safety or health of any person or property, unless such building or structure is immediately repaired and secured or demolished by its owner or occupant, the Town Board may by resolution authorize the Code Enforcement Officer or Town Engineer to immediately cause the repair or demolition of such unsafe building or structure. 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 § 63-5 hereof.

Decision:

- Add the above wording as a new section to this chapter.
- No revision desired.

Ch. 66, Critical Environmental Area

8-13-2009 by L.L. No. 1-2009

<https://www.ecode360.com/14590565>

No changes are recommended.

Decision:

- No revision desired.
- Revise as follows: _____

Ch. 69, Fireworks

3-13-1991 as Ch. 65, Arts. II and III, of the 1991 Code

<https://www.ecode360.com/11047741>

This chapter establishes the Town Supervisor as the permit issuing authority. Section 69-2 contains a penalty of not less than \$5 nor more than \$100. Is any revision desired?

Decision:

Standardize the penalty at the violation maximum of \$250/15 days.

Revise as follows:

No revision desired.

Ch. 72, Flood Damage Prevention

4-25-2001 by L.L. No. 4-2001

<https://www.ecode360.com/11047744>

This chapter establishes standards for construction and development in flood hazard areas, consistent with the model legislation promulgated under the National Flood Insurance Program.

- A. Section 72-11B contains an application fee of \$35 and a deposit amount of not more than \$500. Is any revision desired?

Decision:

Revise as follows: _____

No revision desired.

- B. In § 72-18A(c) we will update the reference “Subsections B, D and E” to “Subsections B, C and D” pursuant to the deletion of former Subsection C and the renumbering of the remaining subsections by L.L. No. 5-2016.

Ch. 75, Games of Chance

3-13-1991 as Ch. 114 of the 1991 Code

<https://ecode360.com/11047976>

Pursuant to the consolidation of state agencies by L. 2012, c. 60, we will update the title "Racing and Wagering Board" to "Gaming Commission" in § 75-1. No other revisions are suggested.

Decision:

No revision desired.

Revise as follows: _____

Ch. 83, Littering

3-13-1991 as Ch. 65, Arts. I and III, of the 1991 Code

<https://ecode360.com/11047980>

A. Vehicle and Traffic Law § 1219, Subsection (a), provides as follows:

(a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans, snow or any other substance likely to injure any person, animal, or vehicle upon such highway.

This chapter prohibits depositing snow or ice into any public highway, street, public place or thoroughfare in the Town and the depositing debris or rubbish into highways. Section 1600 of the Vehicle and Traffic Law prohibits municipalities from enacting local provisions that conflict with or duplicate the state Vehicle and Traffic Law. We suggest you consult your attorney as to any necessary revisions.

Decision:

Revise as follows:

No revision desired.

B. Section 83-5 contains a penalty of not less than \$50 nor more than \$250. Is any revision desired?

Decision:

Standardize at the violation level of \$250/15 days.

Delete minimum fine.

Retain minimum fine.

Revise as follows: _____

No revision desired.

Ch. 86, Noise Control

8-28-1996 by Ord. No. 1996-3

<https://ecode360.com/11047988>

This chapter relies on the “community standards” enforcement rather than proscribing certain decibel levels. While standards based on decibel levels are more objective, some municipalities find that the equipment, maintenance and training standards required to properly enforce the decibel standards are more burdensome than they wish to maintain. We do, however, have sample legislation that we can provide if you wish to pursue that option.

- A. In the definition of REAL PROPERTY LINE, it seems the first word, “Either,” should be deleted, unless there is missing wording in the definition:

REAL PROPERTY LINE — ~~Either~~ The boundary, including its vertical extension, which separates the parcel of real property owned or controlled by one person from that owned or controlled by another person, including intra-building real property divisions.

Decision:

Revise as suggested.

Revise as follows:

- B. Section 86-6 contains graduated fine amounts: first offense, a fine up to \$250; second offense within a six month period, a fine up to \$375; and the third and each subsequent offense within a six-month period, a fine up to \$500 or imprisonment for a period not in excess of 15 days, or both. Is any revision desired?

Decision:

Revise as follows:

No revision desired.

Ch. 89, Peddling and Soliciting

3-13-1991 as Ch. 17 of the 1991 Code

<https://ecode360.com/11048040>

- A. We generally recommend that the Town Attorney be consulted regarding potential constitutionality issues found in legislation containing license, fee or registration requirements for religious or charitable organizations. We are aware of several decisions ruling against such provisions [see, for example, Service Employees International Union, Local 3 v. Municipality of Mt. Lebanon, 446 F.3d 419 (3d Cir. 2006), and Watchtower Bible & Tract Society of N.Y., Inc. v. Village of Stratton, 536 U.S. 150 (2002)]. We note that § 89-2 contains a few exemptions, but the Town may also wish to add the following exemption: "Any person or individual that is merely proselytizing for either religious or political purposes, distributing religious or political handbills at no cost, or exercising the

Town of Manlius, NY

right to anonymous religious or political speech without soliciting any funds and without selling any goods or soliciting for contributions."

Decision:

Incorporate the above sentence toward the end of § 89-2.

Revise as follows:

No revision desired.

B. Section 89-4A requires an applicant for a license under this chapter to file "satisfactory proof of good character." Is this requirement sufficiently descriptive to be enforceable? What kind of proof is "satisfactory"?

(1) For example, similar provisions in the Town of LeRoy's Code include the following sentence:

Such proof of good character shall consist of references from a Better Business Bureau, Chamber of Commerce, law enforcement agency, or municipal clerk within the area where the person lives or does business, or other similar reference.

(2) The Town of North Salem includes the following:

. . . including notarized references by at least two adults attesting to the good moral character and business responsibility of the applicant.

Decision:

Add number _____ above to Subsection A.

Revise as follows:

No revision desired.

C. Section 89-12 contains the following license fees:

Each person licensed as a hawker, peddler or solicitor for a period of six months or less: \$50; for a period in excess of six months but for not more than one year: \$100.

Each person licensed to assist a hawker, peddler or solicitor: \$25 for a period of six months or less; and \$50 for a period in excess of six months but for not more than one year.

Decision:

Revise as follows:

No revision desired.

D. Section 89-17 provides a violation of this chapter shall be a misdemeanor, punishable by not more than \$250 or imprisonment not to exceed six months, or both. Is any revision desired?

Decision:

Standardize at the misdemeanor level maximum of \$1,000/one year.

Standardize at the violation level of \$250/15 days.

Revise as follows: _____

No revision desired.

Ch. 92, Picketing

3-13-1991 as Ch. 165 of the 1991 Code

<https://ecode360.com/11048094>

This chapter prohibits picketing near residences in the Town. We note that the Supreme Court held that a similar law adopted by Brookfield, Wisconsin, was constitutional [Frisby v. Schultz, 487 U.S. 474 (1988)]. The penalty in § 92-3 provides that a violation of this chapter shall be a misdemeanor punishable by a maximum fine of \$500 or imprisonment for not more than 60 days, or both. Is any revision desired?

Decision:

Standardize at the misdemeanor level maximum of \$1,000/one year.

Revise as follows: _____

No revision desired.

Ch. 95, Plumbing

Art. I, Inspections

3-13-1991 as Ch. 29 of the 1991 Code

<https://ecode360.com/11048098>

Town of Manlius, NY

This article states that Onondaga County is responsible for all plumbing inspections in accordance with the New York State Uniform Fire Prevention and Building Code. If this is still accurate, no revisions are suggested.

Decision:

No revision desired.

Revise as follows:

Ch. 96, Professional Fees

5-28-2015 by L.L. No. 1-2014

<https://ecode360.com/30331585>

This chapter requires reimbursement to the Town of any legal, engineering and other professional consulting fees or costs incurred in the review of plans as a condition of plan approval.

A. There appears to be a missing word/missing wording in § 96-3A:

A. The Town may hire any consultant and/or expert necessary to assist the Town in reviewing or otherwise _____ a municipal application or conducting enforcement/violation efforts, including, but not limited to, scientific, technical, architectural or engineering consultants or legal counsel.

Decision:

Add the following word(s): _____

No revision desired.

Revise as follows: _____

Ch. 99, Records

Art. I, Public Access

3-13-1991 as Ch. 5 of the 1991 Code

<https://ecode360.com/11048101>

The Freedom of Information Law (Article 6 of the Public Officers Law) requires all municipalities to enact regulations on the availability, location and types of records to which the public should have access. This article appears to generally satisfy those requirements. However, the Town may wish to

review New York State's current MODEL REGULATIONS, which can be viewed at https://www.dos.ny.gov/coog/modelregs_publicaccesstorecords.html We note that the statute was amended in 2005 and 2006 regarding reasonable timeframes for granting of requests, awarding of litigation costs for unreasonable denial of requests, and accepting electronic requests.

If the Town wishes to adopt revised regulations, please fill in the model completely, and submit a copy to us with this returned Editorial and Legal Analysis.

Decision:

The Town will pursue adoption of the model regulations. A completed copy will be provided to General Code.

Revise as follows:

Retain current chapter as written.

The Committee on Public Access to Records, referenced in § 99-10, is now the Committee on Open Government.

Ch. 104, Sewers

Art. I, Septic Tank Service

3-13-1991 as Ch. 20 of the 1991 Code

<https://ecode360.com/11048164>

We are unable to determine the original adoption date of this article; however, it has not been amended since at least 1991. It should be reviewed by someone technically competent and familiar with its enforcement to ensure it is reflective of current requirements.

Board to determine if permits are needed

A. In § 104-3B should the following revision should be made: “No person shall discharge or place any offensive material in any of the waters of the town unless a permit therefor has been issued by the New York State Department of ~~Public~~ Health.”

Decision:

Revise to NYS Department of Health.

Revise to NYS Department of Environmental Conservation.

Revise as follows: _____

B. Is the reference to the NYS Health Department in § 104-6E correct?

Town of Manlius, NY

Decision:

- Revise as follows: _____
- No revision desired.

C. Section 104-8 contains an annual license fee of \$5. Is any revision necessary?

Decision:

- Revise as follows: _____
- No revision desired.

D. Section 104-10 contains the following penalties: for a first conviction a fine not to exceed \$25 or by imprisonment for not more than 15 days, or both; and for a second conviction within 18 months thereafter a fine of not more than \$50 or imprisonment for not more than 30 days, or both.

Decision:

- Standardize at the violation level maximum of \$250/15 days.
- Standardize at the misdemeanor level maximum of \$1,000/one year.
- Revise as follows: _____
- No revision desired.

Ch. 113, Snowmobiles

3-13-1991 as Ch. 61 of the 1991 Code

<https://ecode360.com/11048193>

Section 113-2 establishes certain highways upon which snowmobiles travel is permitted. Is this listing still accurate?

Decision:

- Revise as follows:
- No revision desired.

Ch. 119, Solid Waste

2-28-2001 by L.L. No. 2-2001

<https://ecode360.com/11048197>

This chapter appears generally suitable as written, and we note only the following:

- A. The definition of REGULATED MEDICAL WASTE in § 119-2 refers to “medical wastes that have been listed in **6 NYCRR 364.9, paragraph (c)(1)**, and that must be managed in accordance with the requirements of that part.” The reference is incorrect/incomplete; should it refer to Part 364-4.9(c)(1), which pertains to additional operating requirements for transporters of regulated medical waste?

Decision:

Revise the reference to Part 364-4.9(c)(1).

Revise as follows: _____

- B. Section 119-20 contains a table of various offenses and fines. Is any revision desired?

Decision:

Revise as follows:

No revision desired.

Ch. 123, Streets and Sidewalks

Art. I, Notification of Defects

3-13-1991 as Ch. 190 of the 1991 Code

<https://ecode360.com/11048291>

In accordance with Town Law § 65-a, this article requires prior notice of defective conditions in the Town prior to civil action against the Town.

- A. For purposes of clarity, the first sentence of § 123-1 could be revised as follows:

*No civil action shall be maintained against ~~any town or~~ **the Town or the** Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any highway*

Town of Manlius, NY

Decision:

- Revise as indicated.
- No revision desired.

B. Section 123-2 requires the Superintendent of Highways to transmit any notices received to the Town Clerk within five days of receipt. Town Law § 65-a has been amended and now requires transmittal within 10 days of receipt.

Decision:

- Revise § 123-2 to change “five days” to “10 days.”
- No revision desired.

C. Should the time frame for transmittal from the Clerk to the Town Board also be changed from “five days” to “10 days”? (State law does not specify a time frame.)

Decision:

- Revise “five days” to “10 days.”
- No revision desired.

D. Town Law § 65-a includes the following provisions regarding indexing of notices. Should a section be added to this chapter?

4. The town clerk of each town shall keep an indexed record, in a separate book, of all written notices which he shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice or snow upon any town highway, bridge, culvert or sidewalk, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.

Decision:

- Add section to include the above provisions.
- No revision desired.

Ch. 125, Storm Sewers

Art. I, Illicit Discharges and Connections

11-28-2007 by L.L. No. 4-2007

<https://ecode360.com/11048296>

Section 125-21 contains a penalty of not more than \$350 or imprisonment for up to 60 days, or both. Is any revision desired?

Decision:

- Revise as follows: _____
- No revision desired.

Ch. 126, Stormwater Management and Erosion and Sediment Control

9-26-2007 by L.L. No. 2-2007

<https://ecode360.com/11048410>

No changes are recommended.

Decision:

- No revision desired.
- Revise as follows: (attach revisions separately).

Ch. 127, Subdivision of Land

3-13-1991 as Appendix 1 of the 1991 Code

<https://ecode360.com/11048578>

This chapter was adopted before Town Law subdivision provisions were extensively added to state law in 1992. See Town Law § 276 et seq. Although there have been amendments over the years, the Town may wish to review a more up-to-date sample from another New York town. The Town of Bethlehem has a good law that includes the most up-to-date provisions: <https://ecode360.com/8992988>

- A. Definitions, § 127-5.
 - (1) This section is relatively brief compared to typical subdivision chapters; the Town may wish to review the definition section in the Bethlehem chapter linked above to determine whether it would like to add any terms.

Email was sent to LaBella Engineer for Review

Town of Manlius, NY

Decision:

Revise as follows:

No revision desired.

- (2) The term ENVIRONMENTAL COUNCIL is defined in § 127-5 and used once in the chapter; in § 127-8F. The Town indicated that this Council no longer exists.

Decision:

Delete the definition of ENVIRONMENTAL COUNCIL; revise § 127-8F as follows:

The subdivider or his authorized representative shall attend the meeting of the Planning Board to discuss compliance with these regulations and with any conditions which may have been attached to the sketch plan. In the case of any noncompliance, unless a variance has been granted, the Planning Board shall return the plat drawing to the subdivider for the purpose of bringing it into compliance. If the plat drawing complies, it shall be referred to the ~~Environmental Council~~ _____ unless the size, location and topography of the proposed site is such that the Planning Board, in its discretion, determines that further environmental review is not required.

Delete the definition of ENVIRONMENTAL COUNCIL; revise § 127-8F to delete the entire last sentence.

Revise as follows:

No revision desired.

- B. State law time frames for subdivision review and approval include SEQRA considerations. Town Law § 276, Subdivisions 5 and 6, require that the time within which the Planning Board shall hold a public hearing on the preliminary and final plats shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act. The following wording could be added to Article III:

§ 127-XX. Coordination with the State Environmental Quality Review Act.

In its review and approval of preliminary and final plats, 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 (6 NYCRR Part 617) and in accordance with Town Law § 276.

Decision:

Add the above wording as a new section to Article III.

Revise as follows:

No revision desired.

- C. Town Law § 276, Subdivision 7(c), no longer limits to two the number of ninety-day extensions that may be granted regarding conditionally approved plats. The last sentence of § 127-11C could be revised as follows: “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.”

Decision:

Revise as indicated above.

Revise as follows: _____

No revision desired.

- D. Section 127-11C reads in part “Such endorsement shall stipulate that the plat does not conflict with the County Official Map or, in cases where plats front on or have access to or are otherwise related to roads or drainage systems shown on the county map, that such plat has been approved in the manner specified by § 239-k of the General Municipal Law.” Note that § 239-k of the General Municipal Law was repealed by L.1997, c. 451, § 2, effective July 1, 1998. The “see now” is § 239-f of the General Municipal Law, Approval of building permits, curb cuts, and subdivision plats.

Decision:

Revise as follows: “Such endorsement shall stipulate that the plat does not conflict with the County Official Map or, in cases where plats front on or have access to or are otherwise related to roads or drainage systems shown on the county map, that such plat has been approved in the manner specified by ~~§ 239-k~~ § 239-f of the General Municipal Law.”

Revise as follows:

- E. Section 127-20.1E contains the following fees in lieu of reservation of park land:
- (1) Residential R-5 District: \$300 per lot.
 - (2) Residential R-4 District: \$325 per lot.

Town of Manlius, NY

Board Review - Councilor Bollinger recommended reduce fee and collect for future park

- (3) Residential R-3 District: \$350 per lot.
- (4) Residential District R-2: \$375 per lot.
- (5) Residential District R-1 and Restricted Agricultural RA: \$400 per lot.
- (6) Residential Multiple Use Districts R-M: \$350 per apartment unit.

Decision:

Revise as follows:

No revision desired.

F. This chapter was amended by L.L. No. 2-2007 to include references to the requirements of Chapter 126, Stormwater Management and Erosion and Sediment Control (see §§ 127-8I and 127-10C). Is any revision to § 127-22, Storm drainage, necessary in light of the requirements of Chapter 126?

Decision:

Revise as follows:

No revision desired.

G. Section 127-34B(2) requires the site map to be *an ink drawing or tracing cloth or a transparent reproduction with black line on cloth or stable plastic base film*. Is this the current requirement?

Decision:

Revise as follows:

No revision desired.

(New Ch. 129) Small Cell Wireless Deployment Requirements

L.L. No. 3-2019

This local law has not been supplemented into the Code yet; it is located under New Laws: <https://ecode360.com/MA1592/laws/LF1089739.pdf>

- A. This local law adopted this subject as new Chapter 129; in order for it to be incorporated alphabetically in the Table of Contents, can the chapter number be changed to Chapter 110?

Decision:

- Include this local law in the Code as Chapter 110.
- Include this local law in the Code as Chapter 129.

- B. Section 1.3a, the definition of “administrative review,” reads in part “...including review by the Director of Planning and Development or Director of Codes Enforcement...” Note that there is currently no reference to a *Director* of Codes Enforcement in the Town Code.

Decision:

- Revise as follows: “...including review by the Director of Planning and Development or ~~Director of the~~ Codes Enforcement Officer...”
- No revision desired.

- (1) Section 2.1a(ii)(E)3 refers to the Code Enforcement Director. Is any revision desired?

Decision:

- Revise to Code Enforcement Officer.
- Revise as follows: _____
- No revision desired.

- C. The last sentence of Section 2.2g does not make sense: “A permit does not create a property right or grant Town to the Applicant to interfere with other existing uses of the Public ROW.”

Decision:

- Revise sentence as follows:
- No revision desired.

- D. Section 2.5b(ii) contains a customization that needs to be made by the Town:

(ii) Address any needed additional permits. In addition to obtaining a Permit for installation of a Communications Facility, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers in the Public ROW, an Applicant must obtain all other required permits, including but not limited to, [insert other specific local permits]

Town of Manlius, NY

Decision:

Revise to read as follows: *(ii) Address any needed additional permits. In addition to obtaining a Permit for installation of a Communications Facility, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers in the Public ROW, an Applicant must obtain all other required permits, including but not limited to,* _____

Revise to read as follows: *“(ii) Address any needed additional permits. In addition to obtaining a Permit for installation of a Communications Facility, Poles built for the sole or primary purpose of supporting Communications Facilities, or Towers in the Public ROW, an Applicant must obtain all other required permits, ~~including but not limited to,~~ [insert other specific local permits]”*

Other: _____

E. It appears the following revision should be made to § 2.7:

Section 2.7 *Violation of this Chapter. ~~Include appropriate language regarding violations of this Chapter.~~ Violation of any of the provisions of this Chapter shall be a violation punishable with a civil penalty of \$250 for each violation. Each day that a violation occurs or is permitted to exist by the Applicant or Provider constitutes a separate offense.*

Decision:

Town approves above revision.

Other: _____

Ch. 131, Swimming Pools

3-13-1991 as Ch. 35 of the 1991 Code

<https://ecode360.com/11048862>

This chapter should be reviewed against the current standards of the New York State Uniform Fire Prevention and Building Code, which now includes among its provisions the 2015 International Spa and Swimming Pool Code. (See Building Code Section 3109.1, which requires compliance with said ISPSC.) Note that § 131-5A and B contain outdated references to the former Uniform Code.

The 2017 Uniform Code Supplement at the following link includes a variety of Code changes regarding swimming pools and spas: <https://www.dos.ny.gov/DCEA/pdf/2017-Uniform-Code-Supplement-3-17-2017.pdf> (Search on “pool” to view the various provisions.)

Decision:
 Revise as follows:

 No revision desired.
Ch. 134, Taxation

Sent to Assessment 01-30-2024

Sections throughout this chapter refer to the “state board” or “New York State Board of Real Property Services.” As of 2010 amendments, those references should now be changed to “Commissioner of Taxation and Finance.”

Art. I, Senior Citizens Exemption

3-13-1991 as Ch. 81 of the 1991 Code

<https://ecode360.com/11048886>

This article allows a real property tax exemption for senior citizens in accordance with Real Property Tax Law § 467. The maximum income level for the 50% exemption is set at \$24,000 with a sliding scale providing for additional exemption levels.

- A. In order to conform to current statutory wording, § 134-1 could be revised to include the bold and underlined wording, taken from Real Property Tax Law § 467as follows:

*Real property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife **or by siblings**, one of whom is 65 years of age or over, or real property owned by one or more persons, some of whom qualify under this section and the others of whom qualify under § 459-c of this title, shall be exempt from taxation by any municipal corporation in which located to the extent of 50% of the assessed valuation thereof. **For the purposes of this section, “sibling” shall mean a brother or a sister, whether related through half blood, whole blood or adoption.** [bold text added by L.1992, c.506; underlined text added by L.2007, c.348]*

Decision:
 Revise to read as indicated above.

 Revise as follows:

 No revision desired.

- B. Pursuant to Real Property Tax Law § 467, the maximum income level for which an exemption of 50% may be granted is \$29,000, in accordance with c. 186, L. 2006.

Town of Manlius, NY

Decision:

- Revise the maximum of \$26,000 to \$ _____ in § 134-2A and G.
- No revision desired.
- C. Section 134-2D could be revised as follows in light of amendments (amendment year noted in parentheses for informational purposes) to Real Property Tax Law § 467:
- D. *No exemption shall be granted unless **the owner shall have held an exemption under this article for his previous residence or unless (1992)** the title of the property shall have been vested in the owner or one of the owners of the property for at least ~~[24]~~ **12 (1995)** consecutive months prior to the date of making application for exemption; provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and which then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor, and such ownership shall be deemed continuous for the purposes of computing such period of ~~[24]~~ **12** consecutive months. In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse, and such ownership shall be deemed continuous for the purposes of computing such period of ~~[24]~~ **12** consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which application is made for exemption, and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the state, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation by a municipality within the state granting such exemption. Where the owner or owners transfer title to property which, as of the date of transfer, was exempt from taxation under the provisions of this section, the reacquisition of title by such owner or owners within nine months of the date of transfer shall be deemed to satisfy the requirement of this subsection that the title of the property shall have been vested in the owner or one of the owners for such period of ~~[24]~~ **12** consecutive months. Where, upon or subsequent to the death of an owner or owners, title to property which, as of the date of such death, was exempt from taxation under such provisions becomes vested, by virtue of devise or descent from the deceased owner or owners or by transfer by any other means within nine months after such death, solely in a person or persons who, at the time of such death, maintained such property as a primary residence, the requirement of this subsection that the title of the property shall have been vested in the owner or one of the owners for such period of ~~[24]~~ **12** consecutive months shall be deemed satisfied.*

Decision:

Revise as suggested.

Revise as follows:

Make no changes.

D. Section 134-2F could be revised as follows in light of 1990 and 1992 amendments to similar provisions in Real Property Tax Law § 467, Subdivision 2(d):

*F. No exemption shall be granted unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property, ~~[provided that]~~ **except where** an owner ~~[who]~~ is absent 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 only be income only to the extent that it exceeds the amount paid by such owner, spouse, or co-owner for care in the facility, and provided further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner; or the real property is owned by a husband and/or wife, or an ex-husband and/or an ex-wife, and either is absent from the residence due to divorce, legal separation or abandonment and all other provisions of this section are met provided that where an exemption was previously granted when both resided on the property, then the person remaining on the real property shall be 62 years of age or over.** ~~[shall be deemed to remain a legal resident and an occupant of the property while so confined, and income accruing to that person shall be income only to the extent that it exceeds the amount paid by such owner, spouse or co-owner for care in the facility and provided, further, that during such confinement such property is not occupied by other than the spouse or co-owner of such owner.]~~*

Decision:

Revise as suggested.

Revise as follows:

No revision desired.

E. The last sentence of § 134-3 could be revised as follows (1990 amendment to state law):

*. . . Any person otherwise qualifying under this article shall not be denied the exemption under this article if he becomes 65 years of age after the appropriate taxable status date and **on or** before December 31 of the same year.*

Town of Manlius, NY

Decision:

- Revise as suggested.
- Revise as follows: _____
- Make no changes.

Art. II, Tax Assessment Calendar

3-13-1991 as Ch. 106 of the 1991 Code

<https://ecode360.com/11048900>

This article only applies to a notice that was authorized to be included with the Town tax bill in 1986; can this article be deleted?

Decision:

- Remove this article from the Code.
- Retain as written.

Art. III, Alternative Veterans Exemption

3-25-1998 by L.L. No. 1-1998

<https://ecode360.com/11048903>

This article serves to increase the maximum exemption allowable under Real Property Tax Law § 458-a. No changes are suggested.

Decision:

- No revision desired.
- Revise as follows: _____

Art. IV, Exemption for Persons With Disabilities and Limited Incomes

12-29-1999 by L.L. No. 2-1999

<https://ecode360.com/11048909>

This article grants an exemption in accordance with Real Property Tax Law § 459-c.

- A. Pursuant to L.2006, c. 174, and L.2007, c. 348, the following revision could be made to § 134-11:

*Real property owned by one or more persons with disabilities, or real property owned by a husband, wife or both, or by siblings, at least one of whom has a disability, **or real property owned by one or more persons, some of whom qualify under this section and the others***

of whom qualify under § 467 of the Real Property Tax Law, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxation by the Town of Manlius to the extent of 50% of the assessed valuation thereof as hereinafter provided.

Decision:

- Revise as indicated above.
- Revise as follows: _____
- No revision desired.

- B. Pursuant to Real Property Tax Law § 459-c, the maximum income level for which an exemption of 50% may be granted is \$29,000, in accordance with c. 187, L. 2006.

Decision:

- Revise the maximum of \$26,000 to \$_____ in §§ 134-12 and 134-15A.
- No revision desired.

- C. Pursuant to L.2013, c. 265, § 17, “and visually handicapped” following “state commission for the blind” could be deleted in § 134-13A(3).

Decision:

- Delete “and visually handicapped” from § 134-13A(3).
- Other: _____

- D. The following could be added to § 134-13A: *(iv) is certified to receive a United States Postal Service disability pension, or (v) is certified to receive a United States department of veterans affairs disability pension pursuant to 38 U.S.C. § 1521* in accordance with amendments adopted in 2000 and 2009.

Decision:

- Add the following to § 134-13A:
*(4) is certified to receive a United States Postal Service disability pension, or
(5) is certified to receive a United States department of veterans affairs disability pension pursuant to 38 U.S.C. § 1521*
- No revision desired.

- E. Section 134-13B could be revised as follows, in accordance with amendment to the statute in 2000, 2009 and 2013:

B. An award letter from the Social Security Administration or the Railroad Retirement Board or a certificate from the State Commission for the Blind, ~~and Visually Handicapped~~

or an award letter from the United States Postal Service, or an award letter from the United States Department of Veterans Affairs shall be submitted as proof of disability.

Decision:

- Revise as indicated above.
- Revise as follows: _____
- No revision desired.

F. Section 134-14A could be revised as follows in accordance with L.2002, c. 83:

*A. Any exemption provided by this article shall be computed after all other partial exemptions allowed by law, **excluding the school tax relief (STAR) exemption authorized by § 425 of the Real Property Tax Law,** have been subtracted from the total amount assessed; provided, however, that no parcel may receive an exemption for the same municipal tax purpose pursuant to both this article and § 467 of the Real Property Tax Law.*

Decision:

- Revise as indicated above.
- Revise as follows: _____
- No revision desired.

G. Regarding § 134-15A(2): The Town is authorized to adopt a local law or resolution exempting unreimbursed medical and prescription drug expenses, as follows:

*(2) 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 monies earned through employment in the federal foster grandparent program, **and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance, if the governing board of a municipality.** In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income.*

Decision:

- Revise as indicated above.
- No revision desired.

Art. V, Infrastructure Exemption

2-28-2001 by L.L. No. 3-2001

<https://ecode360.com/11048932>

This article grants an exemption in accordance with Real Property Tax Law § 485-g.

- A. Pursuant to § 201 of the Real Property Tax Law, as revised by L.2010, c. 56, effective June 22, 2010, references to the Office of Real Property Services should be revised to the Commissioner of Taxation and Finance. We will make this revision during final editing. Note that the following definition appears in § 134-21; please advise as to how this definition should be revised:

OFFICE OF REAL PROPERTY SERVICES — *The office established in the executive department pursuant to Real Property Tax Law § 201.*

Decision:

- Revise definition as follows:

COMMISSIONER OF TAXATION AND FINANCE --

- Simply delete the definition with no replacement.
 No revision desired.

Art. VI, Exemption for Real Property Improvements for Physically Disabled Persons

8-25-2004 by L.L. No. 2-2004

<https://ecode360.com/11048951>

This article grants an exemption in accordance with Real Property Tax Law § 459.

- A. In § 134-26 the following revision could be made in accordance with L.2013, c. 265:

...except that an individual who has obtained a certificate from the state commission for the blind ~~and visually handicapped~~ stating that such individual is legally blind may submit such certificate in lieu of a physician's certified statement.

Decision:

- Revise as indicated above.
 Revise as follows: _____
 No revision desired.

Art. VII, Exemption for Living Quarters for Parents or Grandparents

8-25-2004 by L.L. No. 3-2004

<https://ecode360.com/11048956>

Town of Manlius, NY

This article grants an exemption in accordance with Real Property Tax Law § 469. Section 134-33 could be revised as follows in light of 2008 amendments to similar state law provisions in Real Property Tax Law § 469, Subdivision 5:

*For the purposes of this article, the term "parent or grandparent" shall be deemed to include the ~~natural or adopted~~ **birth or adoptive** grandparents and parents of the owner or the spouse of the owner.*

Decision:

- Revise as indicated above.
- No revision desired.
- Revise as follows: _____

Art. VIII, Exemption for Members of Volunteer Fire Companies and Ambulance Services

8-24-2005 by L.L. No. 3-2005

<https://ecode360.com/11048967>

This article grants an exemption in accordance with Real Property Tax Law § 466-g. No changes are recommended.

Decision:

- No revision desired.
- Revise as follows: _____

Art. IX, Converted Condominium Units

12-13-2006 by L.L. No. 10-2006

<https://ecode360.com/11048983>

This article provides that there shall be no exemption pursuant to § 581 of the Real Property Tax Law for converted condominium units. No changes are recommended.

Decision:

- No revision desired.
- Revise as follows: _____

Art. X, Cold War Veterans Exemption

10-10-2007 by L.L. No. 3-2007

<https://ecode360.com/11048985>

This article grants an exemption in accordance with § 458-b of the Real Property Tax Law.

A. Definitions, § 134-42.

- (1) The definition of “Cold War veteran” was amended by L.2008, c. 6 and now reads as follows:

COLD WAR VETERAN — 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, was discharged or released therefrom under honorable conditions.

Decision:

- Revise definition to read as set forth above.
 No revision desired.
 Revise as follows: _____

- (2) L.2009, c. 235, § 1, rewrote the definition of “latest state equalization rate” to read as follows:

“Latest state equalization rate” means the latest final state equalization rate or special equalization rate established by the commissioner pursuant to article twelve of this chapter. The commissioner shall establish a special equalization rate if it finds that there has been a material change in the level of assessment since the establishment of the latest state equalization rate, but in no event shall such special equalization rate exceed one hundred. In the event that the state equalization rate exceeds one hundred, then the state equalization rate shall be one hundred for the purposes of this section. Where a special equalization rate is established for purposes of this section, the assessor is directed and authorized to recompute the Cold War veterans exemption on the assessment roll by applying such special equalization rate instead of the latest state equalization rate applied in the previous year and to make the appropriate corrections on the assessment roll, notwithstanding the fact that such assessor may receive the special equalization rate after the completion, verification and filing of such final assessment roll. In the event that the assessor does not have custody of the roll when such recomputation is accomplished, the assessor shall certify such recomputation to the local officers having custody and control of such roll, and such local officers are hereby directed and authorized to enter the recomputed Cold War veterans exemption certified by the assessor on such roll.

Decision:

- Revise the definition in § 134-42 to read as set forth above.
 Revise as follows: _____
 No revision desired.

Town of Manlius, NY

- (3) Regarding the definition of “qualified residential real property,” L.2008, c. 6, § 2, deleted “for up to five years” following “institutionalization.”

Decision:

- Delete “for up to five years” following “institutionalization.”
- Revise as follows: _____
- No revision desired.

- B. In accordance with L. 2008, c. 6, § 2, which rewrote § 458-b, Subdivision 3, the following revisions could be made to § 134-44C:

*C. 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~~ **Commissioner**. The owner or owners shall file the completed form in the Assessor's Office on or before the first appropriate taxable status date. ~~The owner or owners of the property shall be required to refile each year. Applicants shall refile on or before the 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 refile each year. Applicants shall be required to refile on or before the appropriate taxable status date if the percentage of disability percentage increases or decreases or may refile if other changes have occurred which affect qualification for an increased or decreased amount of exemption.** Any applicant convicted of willfully making any false statements in the application for such exemption shall be subject to the penalties prescribed in the Penal Law.*

Decision:

- Revise § 134-44C to read as set forth above.
- Revise as follows: _____
- No revision desired.

Art. XI, Tax Levy Limit Override

9-27-2017 by L.L. No. 4-2017

<https://ecode360.com/15934690>

Local laws adopted to override the tax limit are only in effect for one year and for that reason are generally not included in the Code. Does the Town wish to retain this law, or can it be excluded?

Decision:

- Delete this article.
- Retain as written.

Art. XII, Removal of Alternative Energy Systems Exemption

11-16-2016 by L.L. No. 9-2016

<https://ecode360.com/32182536>

This article provides that there shall be no exemption for alternative energy systems in accordance with § 487 of the Real Property Tax Law as authorized by § 487(8) of said law. No changes are suggested.

Decision:

- No revision desired.
- Revise as follows: _____

Ch. 139, Vehicles and Traffic

3-13-1991 as Ch. 60, Arts. I through V, of the 1991 Code

<https://ecode360.com/11049002>

- A. In § 139-5, please confirm that in the entry for Farley Lane and Brickyard Falls Road the stop sign is on Farley Lane and not Farley Road.

Decision:

- Change “Farley Road” to “Farley Lane.”
- No revision desired.

- B. Section 139-11 prohibits all-night parking with a fine of \$20. Is any revision desired?

Decision:

- Revise as follows: _____
- No revision desired.

- C. Section 139-12.1 prohibits parking in fire lanes with a fine of \$50. Is any revision desired?

Decision:

- Revise as follows: _____
- No revision desired.

- D. Should a general penalty section be added to this chapter? Section 1800(c) of the Vehicle and Traffic Law provides: "Every person convicted of a traffic infraction for a violation of any local law, ordinance, order, rule, regulation or administrative code provision adopted

Town of Manlius, NY

pursuant to this chapter by any local authority or continued in effect by this chapter, except those adopted pursuant to §§ 1630 and 1631, shall be punished in the same manner as has heretofore been prescribed by law unless or until otherwise prescribed by local law, ordinance or state statute." Section 1800(b)1 provides as follows:

Every person convicted of a traffic infraction for a violation of any of the provisions of this chapter or of any ordinance, order, rule or regulation adopted pursuant to § 1630 or 1631 of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than \$150 or by imprisonment for not more than 15 days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of 18 months, such person shall be punished by a fine of not more than \$300 or by imprisonment for not more than 45 days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of 18 months, such person shall be punished by a fine of not more than \$450 dollars or by imprisonment for not more than 90 days or by both such fine and imprisonment

Decision:

Add a penalty section to this chapter to read as follows:

Every person convicted of a traffic infraction for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punishable as provided in § 1800 of the Vehicle and Traffic Law.

Revise as follows: _____

No penalty section desired.

Ch. 147, Water

3-13-1991 as Ch. 45 of the 1991 Code

<https://ecode360.com/11049042>

We suggest the Town have this chapter reviewed by someone technically competent and familiar with its enforcement to determine whether any revisions re necessary. It does not appear to have been amended since at least the publication of the 1991 Code.

- A. Section 147-7E contains a fee of \$5 for testing of one inch and smaller meters and \$25 for larger meters.

Decision:

Revise as follows: _____

No revision desired.

- B. Section 147-9C contains the following charges for restoration of service: \$5 during regular business hours and \$7.50 during other than regular business hours.

Decision:

- Revise as follows: _____
 No revision desired.

- C. Section 147-13 contains a penalty of not more than \$25 or imprisonment for up to 30 days, or both.

Decision:

- Standardize penalty at the violation level of \$250/15 days.
 Revise as follows: _____
 No revision desired.

Ch. 155, Zoning

3-13-1991 as Ch. 30, Arts. I through IV and VI through IX, of the 1991 Code

<https://ecode360.com/11049132>

- A. Section 155-2G references overlay districts. Should the Technology Development/Office Overlay Zone (TDO), § 155-12.1, be added to this subsection?

Decision:

- Include the Technology Development/Office Overlay Zone (TDO) in § 155-2G.
 Revise as follows: _____
 No revision desired.

TDO was repealed in 202 with commercial overhaul

- B. Section 155-3, Definitions.

- (1) The definition of “dwelling” could be revised as follows, to include wording we generally see:

*DWELLING — A permanent structure **or portion thereof designed, suitable for, and used for human habitation** and which does not include casual or temporary shelters such as tents, trailers on wheels or other shelter designed to be readily removable from the premises.*

Town of Manlius, NY

Decision:

Revise as indicated above.

No revision desired.

Board to review the definition of Family

(2) The definition of “family” limits the number of unrelated persons living together to “not more than four,” without limiting the number of related people living together. Some case law has found that the rights of a municipality to regulate the number of unrelated persons living together is restricted. Because defining a “family” of unrelated individuals is a factual decision, a municipality desiring to limit the number of unrelated individuals in its definition must do so in a way that does not exclude unrelated individuals who function as the equivalent of a traditional family, despite exceeding the limit. Some municipalities provide for discretionary review of groups of unrelated individuals greater than a specified number to ensure that they are the functional equivalent of a traditional family. This is accomplished by providing criteria for when a group functions as the equivalent of a traditional family, which the zoning official uses in his/her review and determination. For this reason, the Town may wish to revise the definition of “family” to match one of the sample definitions below:

#1: FAMILY -- One or more persons, related by blood, adoption or marriage, living and cooking together as a single housekeeping unit, or a number of persons living and cooking together as a single housekeeping unit though not related by blood, adoption or marriage.

#2: FAMILY – One or more persons who live together in one dwelling unit and maintain a common household, which may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption and may also include domestic servants and gratuitous guests.

#3: FAMILY -- One person or two or more persons, related by blood, foster relationship, marriage or adoption, and, in addition, any domestic servants or gratuitous guests thereof; or one or more persons who need not be so related, and, in addition, domestic servants or gratuitous guests thereof, who are living together in a single, nonprofit dwelling unit and maintaining a common household with single cooking facilities. A roomer, boarder or lodger shall not be considered a member of the family.

#4: FAMILY – One or more persons living together as a single, permanent, not transitory, housekeeping unit, and sharing common kitchen facilities and access to all parts of a dwelling unit. A “family” shall not consist of a club, fraternity, sorority, or a group occupying a boardinghouse.

#5: FAMILY -- One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that 4 or more persons living together in a single dwelling unit, who are not related by blood, adoption, or marriage, do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a traditional family, the following criteria shall be present:

1. The group shares the entire dwelling unit.
2. The group lives and cooks together as a single housekeeping unit.
3. The group shares expenses for food, rent, utilities or other household expenses.
4. The group is permanent and stable, and not transient or temporary in nature.
5. Any other factor reasonably related to whether the group is the functional equivalent of a family.

Decision:

Replace definition with # _____ above.

Revise as follows:

No revision desired.

- (3) The Town may wish to consider the addition of a definition of “nonconforming use.”
For example:

Board to decide if
"Nonconforming
use" should be added

NONCONFORMING USE -- Any use of a building or structure, lot or land, or part thereof, lawfully existing at the effective date of this chapter or any amendments thereto affecting such use, which does not conform to the use requirements of this chapter for the district in which it is located.

Decision:

Add a definition to read as above.

Add a definition as follows:

Definition not desired.

- C. Section 155-5, Zoning Map, states that the Zoning Map is “attached hereto” and also that it is on file in the office of the Town Clerk. Currently there is no Zoning Map in the Code. We suggest the following revision:

The boundaries of the districts listed in § 155-4 are fixed and defined as shown on a map entitled "Zoning Map of the Town of Manlius" ("Zoning Map"), ~~A true copy of the Zoning Map is attached hereto as "Amended Zoning Map" ("Amended Zoning Map") and which Amended Zoning Map replaces the Zoning Map initially adopted by the Town of Manlius Town Board June 13, 1945, as amended thereafter. Where a use district is shown as a strip~~

Town of Manlius, NY

of land along a road or highway, the depth of such district, unless otherwise shown on the Zoning Map, shall be 200 feet from the boundary of the road or highway upon which such property fronts. The Zoning Map shall be on file in the office of the Town Clerk.

Decision:

Revise as indicated.

Revise as follows:

[Empty rectangular box for revision details]

This was changed in 2020

D. In § 155-14A(1), reference is made to the “RSDD Zone”; it appears these references should be to the RSD Zone.

Decision:

Revise the two instances of “RSDD Zone” to “RSD Zone in § 155-14A(1).

Other: _____

This was changed in 2020

E. Section 155-14E(3) reads in part “All signage, including requests for freestanding signs, within the **Towne Center** shall be subject to site plan review by the Planning Board, with the size and design to be reviewed with the Planning Board to insure compatibility with the architectural theme established for the **Center**.” There are no other references to the Towne Center in the Code; is this reference correct?

Decision:

Revise as follows: “All signage, including requests for freestanding signs, within the ~~Towne Center~~ **Regional Shopping District** shall be subject to site plan review by the Planning Board, with the size and design to be reviewed with the Planning Board to insure compatibility with the architectural theme established for the ~~Center~~ **district**.”

No revision desired.

This was changed in 2020

F. Section 155-22C(2)(b) contains duplicate and conflicting wording. We suggest the following revision. Additionally, (1) this subsection refers to the *Residential Shopping District* whereas the title of this district in this chapter is the *Neighborhood Shopping District*; and (2) please indicate which number of permitted vehicles for the Neighborhood Shopping Districts is correct: the subsection currently indicates both two and three:

~~Operative but unlicensed motor vehicles, including specialty motor vehicles which are inoperative.~~ Operative but unlicensed motor vehicles, including specialty motor vehicles which are inoperative, shall be permitted as follows: a maximum of one per tax map parcel in all residential districts, except R-5; one per every 15 dwelling units in R-5 Districts; two per tax map parcel in Residential Neighborhood Shopping Districts; [OR] three per tax map parcel in Residential Neighborhood Shopping Districts; three per tax map parcel in Regional Shopping Districts, Commercial Districts and Industrial Districts, except where

an increase in the permitted number is approved by the Planning Board upon application by the owner of the property and the showing of special circumstances at a public hearing.

Decision:

Revise as suggested above; the correct number of motor vehicles permitted in the Neighborhood Shopping Districts is ____ two; ____ three. (check one)

Otherwise revise as follows:

Board to Review

G. The sign restrictions in § 155-26 should be carefully reviewed in light of the 2015 United States Supreme Court decision, *Reed v. Town of Gilbert* (135 S.Ct. 2887), which brings into question any sign provisions that could be considered to be content-based. For example, any Town regulations in Subsections C, D, H and J which regulate signs based on content rather than type [like portable signs in Subsection F] may not survive a constitutional challenge.

Decision:

Revise as follows:

No revision desired.

H. The Town Environmental Council is referenced twice: in §§ 155-27B(4)(a) and 155-30D. The Town indicated this Council no longer exists. Please indicate the desired revisions:

§ 155-27B(4)(a): *All applications for special use permits shall first be referred to the Town Planning Board, and such Board shall review the application to assure that the requirements of this § 155-27 have been completed, and after such review, the Planning Board shall forward its recommendations in a written report to the Town Board. The Planning Board, in its discretion, may refer the application to the Town Environmental Council for comments and a report before making its recommendations to the Town Board.*

§ 155-30D: *It shall be unlawful for any person to modify existing topography as provided in Subsection B without first obtaining a valid permit from the Codes Enforcement Officer. An applicant for a permit must submit an application to the Codes Enforcement Officer that meets the requirements of Subsection E. If the application is incomplete, the Codes Enforcement Officer shall return it to the applicant, specifying the manner in which it is incomplete. Upon receipt of a complete application, the Codes Enforcement Officer shall refer the application to the Planning Board. The Planning Board may refer such application to the Town of Manlius Environmental Council and the Town Engineer for their recommendations. In its discretion, it may schedule a public hearing on the matter. The Planning Board may grant the permit, grant the permit with modifications or conditions, or it may deny the permit.*

Decision:

Revise as follows:

Amended in 2022

- I. Section 155-27.2, pertaining to Solar photovoltaic energy systems, contains an erroneous reference in Subsection H(4): “In addition to any other available remedies, any unpaid costs resulting from the Town of Manlius' removal of a vacated, abandoned or decommissioned solar energy system shall constitute a lien upon the property against which the costs were charged. Legal counsel of the Town of Manlius shall institute appropriate action for the recovery of such cost, plus attorney's fees, including but not limited to filing of municipal claims pursuant to 53 P.S. § 7107 et seq. for the cost of such work...” This is a reference to the Pennsylvania Statutes, not the New York Statutes. Your Attorney should be consulted as to the correct revision of this provision.

Decision:

Revise as follows:

- J. Section 155-28B(4) contains an engineering fee of \$100 per acre for design review and inspection.

Decision:

Revise as follows: _____

No revision desired.

- K. Article V addresses nonconforming uses. In order to account for uses made nonconforming by amendments to this chapter, § 155-36A could be revised as follows:

*A. Existing use. All property which at the effective date of this chapter **or an amendment hereto** is legally employed in a use which is not permitted hereunder in the use district in which such property is located according to the Zoning Map forming a part hereof may, except as herein otherwise provided, continue as a nonconforming use and shall enjoy the rights and be subject to the limitations regarding nonconforming uses as provided by this chapter.*

Decision:

Revise as indicated above.

No revision desired.

- L. Sections 155-46 through 155-49 pertain to the Board of Appeals. Note that Town Law § 267, Subdivision 11, authorizes the Town Board to establish alternate member positions, as follows:

11. Alternate members.

(a) A town board may, by local law or ordinance, or as a part of the local law or ordinance creating the zoning board of appeals, establish alternate zoning board of appeals member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the zoning board of appeals shall be appointed by resolution of the town board, for terms established by the town board.

(b) The chairperson of the zoning board of appeals may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial zoning board of appeals meeting at which the substitution is made.

(c) All provisions of this section relating to zoning board of appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

Decision:

Revise as follows:

No revision desired.

SAMPLES REQUESTED BY THE TOWN

These links will take you to the indicated chapter/section in *eCode360*[®]. Note that you can print, email and/or download sections of *eCode360*[®] in either Word or PDF format so that you can customize per your needs.

Chickens

Town of Colonie, NY Code

Chapter 79: Dogs and Other Animals
§ 79-33: Chickens.
<https://ecode360.com/29652893>

Town of Henrietta, NY Code

Chapter 295: Zoning
§ 295-52.3: Chicken coops.
<https://ecode360.com/29410051>

Town of Cazenovia, NY Code

Chapter 165: Zoning
§ 165-82.3: Keeping of chickens.
<https://ecode360.com/26967349>

Town of Huntington, NY Code

Chapter 78: Animals
Article IV: Pigeons, Chickens and Ducks
<https://ecode360.com/7221591>

Food Trucks

Town of Henrietta, NY Code

Chapter 295: Zoning
§ 295-52.2: Food trucks.
<https://ecode360.com/29409594>

Town of Red Hook, NY Code

Chapter 79: Food Trucks
<https://ecode360.com/33359911>

Town of Southeast, NY Code

Chapter 103: Peddling and Soliciting
Article II: Food Trucks
<https://ecode360.com/31900258>

Storage Pods

Town of Mount Pleasant, NY Code

Chapter 218: Zoning
§ 218-20.5: Storage pods.
<https://ecode360.com/32145703>

Town of Kent, NY Code

Chapter 67A: Temporary Storage Containers and Construction Debris Containers
<https://ecode360.com/16263718>

Town of Malta, NY Code

Chapter 120: Portable Storage Units
<https://ecode360.com/8556555>

Short-Term Rentals (Air BNB and Luxury Camping)

Town of Warwick, NY Code

Chapter 129: Short-Term Rental Property
<https://ecode360.com/34054136>

Town of Greece, NY Code

Chapter 162A: Rental Properties
<https://ecode360.com/29005260>

Town of Cazenovia, NY Code

Chapter 165: Zoning
§ 165-82.5: Luxury camping, luxury tenting (glamping).
<https://ecode360.com/34338165>

Town of Manlius, NY

Ch. 165 Art XVI: Definitions and Rules of Interpretation
165-61: Definitions: LUXURY CAMPING, LUXURY TENTING (GLAMPING)
<https://ecode360.com/34338150?highlight=luxury>

Drones

Town of Oyster Bay, NY Code

Chapter 231: Unmanned Aircraft
<https://ecode360.com/32592187>

Town of Huntington, NY Code

Chapter 189: Unmanned Aircraft Systems
Article II: Use of Unmanned Aircraft Systems
<https://ecode360.com/30820045>

Town of Hempstead, NY Code

Chapter 77: Public Places, Regulation of
§ 77-8: Regulation of unmanned aircraft in vicinity of Town facilities.
<https://ecode360.com/31276612>

Fencing/Lighting

Town of Stafford, NY Code

Chapter 82: Fences
§ 82-6: Materials and composition.
<https://ecode360.com/31815605>

Town of Concord, NY Code

Chapter 150: Zoning
§ 150-198: Powers and duties. – Note: Scroll to Subsection B(4) of this section
<https://ecode360.com/8074568>

Town of Ulysses, NY Code

Chapter 212: Zoning
§ 212-123: Standards for outdoor lighting.
<https://ecode360.com/28861433>

Lighting Intensity in Residential Area

Town of West Seneca, NY Code

Chapter 79: Lighting, Artificial
<https://ecode360.com/6842700>

Town of Mount Morris, NY Code

Chapter 19: Environmental Regulations
§ 19-12: Exterior illumination and glare.
<https://ecode360.com/33693828>

Town of Southampton, NY Code

Chapter 330: Zoning
Article XXIX: Outdoor Lighting
<https://ecode360.com/8704829>

WRAP UP

Completeness Check

In order to ensure that the codification project can be scheduled for final editing upon return of this Editorial and Legal Analysis workbook to General Code, please double-check the following items prior to sending:

- Binder and Seal information on p. 6: Is the binder information completed? Is the Seal attached (or has it been e-mailed) if required?
- Throughout the Editorial and Legal Analysis, are all questions answered?
- Are all attachments accounted for? If a checkbox indicates “revise as attached” is there a corresponding document?

Final Review

- The Governing Body and Municipal Attorney have been consulted about and/or have reviewed and approved the decisions in this document.
- Sample language and any wording supplied by the municipality has been customized according to your specific requirements (see **Sample Legislation** above, p. 4).

Sending Materials

The master copy of this completed Editorial and Legal Analysis workbook and any attachments with a decision or revised wording should be submitted.

We strongly suggest that you make a photocopy for your records before sending General Code the original materials.

- ✓ If several officials have completed their own copies of the Editorial and Legal Analysis, please compile all responses into one master version. Any conflicts in responses should be resolved prior to submission.
- ✓ If several officials have worked in the same copy of the Editorial and Legal Analysis, that version is fine to send to General Code, as long as there are no conflicts in the responses.

Send materials to:

General Code
781 Elmgrove Road
Rochester, NY 14624

E-mail files to:

ezsupp@generalcode.com

General Codes

REVIEW & UPDATES

Why Does our Code Need Review?

Laws Change:

- State statues are frequently added, revised and repealed that affect local governments
- Community needs change
- Technology and Retail Shifts

Benefits of Reviewing Code

- Avoid conflicts and inconsistencies
- Avoid loss of fees and penalties
- Avoid Enforcement issues
- Avoid lawsuits

Process

- Committee of Town Officials Met with General Code
- General Code Reviewed Code and Provided Feedback
- Committee Reviewed Recommendations and Sorted Them Into Groups
 1. Easy to Make, Low Impact Decisions
 2. Major Decision that Require Board Review
 3. Consult with Experts

Where the Town is in the Process:

1. Board Review & Decisions
2. Draft Local Laws
3. Public Hearings
4. Adopt Amendments

Timeline

- April 10, 2024 – Initial Work Session to Separate out the Larger issues that should be considered individually
- May 8, 2024 – Follow up Work Session to discuss items that needed Board review
- May 23, 2024 – All packets with questions on low impact decisions and fee/penalty chart, along with questions and feedback on major decisions from the Town Board Members, Planning Board Chair and ZBA Chair are due back to Town Hall
- June 12, 2024 – Final Town Board Work Session
- General Code Review Committee with submit changes to General Coade
- Summer- Early Fall 2024 – Hold Public Hearings

Binder

Cover Color

- Green
- The different colors will help to distinguish between current Code Binder and new Code Binder.

1 →

Cover Lettering

- White

2 →

Seal or Logo

- Seal

Low Impact Decisions

Ch. 11, Enforcement Art. I, Codes Enforcement Officers

A. Section 11-1A could be clarified as follows:

*There is hereby established the positions of Codes Enforcement Officers to enforce the ordinances, **and** local laws **of the Town** and **the** laws of the State of New York and rules and regulations adopted pursuant thereto or the portions thereof as hereinafter provided.*

- Decision: Revise As Indicated

Ch. 11, Enforcement Art. I, Codes Enforcement Officers Continued:

B. Section 11-2 specifies the Code chapters and provisions for which the Code Enforcement officer is responsible. The Town should review this section to ensure it is accurate. Additionally, the wording is somewhat repetitive, and we suggest the following revision:

- **§ 11-2. Powers and duties of Codes Enforcement Officer.**

~~A. The Codes Enforcement Officer as designated by the Town Board shall enforce Chapter 72, Flood Damage Prevention, and Chapter 155, Zoning, and shall have all the powers and duties specified for the Enforcement Officer by said chapters.~~

~~B A. The Codes Enforcement Officer shall be responsible for the enforcement of the New York State Uniform Fire Prevention and Building Code.~~

€ **B.** The Codes Enforcement Officer shall **enforce** ~~be responsible for~~ and **shall** have all the **powers and** duties of the Enforcement Officer specified in the following chapters of the

Code:

(1) Chapter 59, Building Construction and Fire Prevention.

(2) Chapter 63, Buildings, Unsafe.

(3) Chapter 72, Flood Damage Prevention.

~~(3 4) Chapter 131, Swimming Pools.~~

(5) Chapter 155, Zoning.

~~D C. The Codes Enforcement Officer shall also be responsible for enforcing the applicable provisions of the Multiple Residence Law of the State of New York and Chapter 127, Subdivision of Land.~~

€ **D.** The Codes Enforcement Officer shall have all the other duties, powers and obligations set forth for such officer in this Code not otherwise specified in this section and all other duties, powers and obligations necessary to accomplish the purposes of his office.

- **Decision - Revise Section to as set forth above**

Ch. 89, Peddling and Soliciting

- Section 89-4A requires an applicant for a license under this chapter to file “satisfactory proof of good character.” Is this requirement sufficiently descriptive to be enforceable? What kind of proof is “satisfactory”?

For example, similar provisions in the Town of LeRoy’s Code include the following sentence:

Such proof of good character shall consist of references from a Better Business Bureau, Chamber of Commerce, law enforcement agency, or municipal clerk within the area where the person lives or does business, or other similar reference.

- The Town of North Salem includes the following:

. . . including notarized references by at least two adults attesting to the good moral character and business responsibility of the applicant.

- Decision - Revise as follows –Add a #9 – Satisfactory proof of good character shall consist of a Fingerprint Background Check that is not more than 1 month old at the time of the application

Ch. 96, Professional Fees

- There appears to be a missing word/missing wording in § 96-3A:

A. The Town may hire any consultant and/or expert necessary to assist the Town in reviewing or otherwise _____ a municipal application or conducting enforcement/violation efforts, including, but not limited to, scientific, technical, architectural or engineering consultants or legal counsel.

- **Decision – Add the following word: “Evaluate”**

Ch. 25, Procurement Policy Art. I, Best Value Basis

- The definition of "best value" is found in State Finance Law § 163, which was amended in 2015 to include service-disabled veteran-owned business enterprises. Section 25-3 could be revised as follows:
 - *"Best value" shall mean the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis. Such basis may also identify a quantitative factor for offerers that are small businesses or certified minority- or women-owned business enterprises as defined in (New York State) Executive Law § 310(1), (7), (15) and (20), **or service-disabled veteran-owned business enterprises as defined in Subdivision 1 of § 369-h of the Executive Law,** to be used in evaluation of offers for awarding of contracts for services.*
- **Decision- Revise as indicated above**

Ch. 27, Retirement Incentive Program

- The open period for participation in this program was for 90 days in 2010. Is it necessary to retain this chapter in the Code?
- **Decision - Delete Chapter – Spoke with Ann Regarding this Chapter**

Ch. 44, Animals

Add Clause:

All sections of this Chapter can be superseded by a contract with an outside agency for dog control services. This includes any additional services and regulations provided within the contract.

Ch. 72, Flood Damage Prevention

- Section 72-11B contains an application fee of \$35 and a deposit amount of not more than \$500. Is any revision desired?
- Decision - Change \$35 to \$50

Ch. 89, Peddling and Soliciting

- We generally recommend that the Town Attorney be consulted regarding potential constitutionality issues found in legislation containing license, fee or registration requirements for religious or charitable organizations. We are aware of several decisions ruling against such provisions [see, for example, Service Employees International Union, Local 3 v. Municipality of Mt. Lebanon, 446 F.3d 419 (3d Cir. 2006), and Watchtower Bible & Tract Society of N.Y., Inc. v. Village of Stratton, 536 U.S. 150 (2002)]. We note that §89-2 contains a few exemptions, but the Town may also wish to add the following exemption: "Any person or individual that is merely proselytizing for either religious or political purposes, distributing religious or political handbills at no cost, or exercising the right to anonymous religious or political speech without soliciting any funds and without selling any goods or soliciting for contributions."
- **Decision – Incorporate the above sentence toward the end of §89-2.**

Ch. 113, Snowmobiles

- Section 113-2 establishes certain highways upon which snowmobiles travel is permitted. Is this listing still accurate?
- **Decision - Remove Gulf Rd, Hale Rd and McClinton**

Ch. 127, Subdivision of Land

- 2. The term ENVIRONMENTAL COUNCIL is defined in § 127-5 and used once in the chapter; in § 127-8F. The Town indicated that this Council no longer exists.
- **Decision – Delete the definition of ENVIRONMENTAL COUNCIL; revise § 127-8F to delete the entire last sentence.**
- State law time frames for subdivision review and approval include SEQR considerations. Town Law § 276, Subdivisions 5 and 6, require that the time within which the Planning Board shall hold a public hearing on the preliminary and final plats shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act. The following wording could be added to Article III:

§ 127-XX. Coordination with the State Environmental Quality Review Act. In its review and approval of preliminary and final plats, 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 (6 NYCRR Part 617) and in accordance with Town Law § 276.

- **Decision – Add the above wording as a new section to Article III**

Penalties/Fees

BREAKDOWN

Fees/ Penalty Chart

Ch. 1, General Provisions	Section	Fee/Penalty	Suggested
	Art. III, General Penalty 3-13-1991 as Ch. 1, § 1.10, of the 1991 Code	Maximum of \$250,	Standardize penalty at the violation level of \$250/15 days
Ch. 44, Animals	Section	Fee/Penalty	Suggested
	Section 44-10/44-13	Minimum redemption fee \$50	
	Section 44-11/44-26A	\$50 First Offense, \$100 Second Offense, \$250 Third Offense	
	Section 44-22A(1)	No less \$50 or more then \$500	
	44-11C, 44-16D, 44-22A(2) and 44-26B	\$15 for issuance of a summons	
Ch. 48, Assemblies, Public	Section	Fee/Penalty	Suggested
	Section 48-10	\$25 w-maximum of 250 persons or less - \$50 between 250 and not over 1,000 - \$100 in excess of 1,000 persons	
	Section 48-11D	Penalty of not more than \$500	Standardize at the misdemeanor level maximum of \$1,000/one year
Ch. 69, Fireworks	Section	Fee/Penalty	Suggested
	Section 69-2	Penalty of not less than \$5 no more than \$100	Standardize penalty at the violation level of \$250/15 days
Ch. 72, Flood Damage Prevention	Section	Fee/Penalty	Suggested
	Section 72-11B	Application fee \$50 and deposit amount not more than \$500	

Fees/ Penalties Cont.

Ch. 83, Littering	Section	Fee	Suggested
	Section 83-5	penalty of not less than \$50 no more than \$250	Standardize penalty at the violation level of \$250/15 days
Ch. 86, Noise Control	Section	Fee/Penalty	Suggested
	Section 86-6	first offense, a fine up to \$250; second offense within a six-month period, a fine up to \$375; and the third and each subsequent offense within a six-month period, a fine up to \$500	
Ch. 89, Peddling and Soliciting	Section	Fee/Penalty	Suggested
	Section 89-12	Each Person Licensed Period of 6 months or less \$50; Period in excess of six months but not more than one year \$100	
	Section 89-12	Each Person Licensed to assist \$25 for a period of six months or less; \$50 for a period in excess of six months but for not more than one year	
	Section 89-17	Misdemeanor punishable by not more than \$250	Standardize at the misdemeanor level maximum of \$1,000/one year.
Ch. 92, Picketing	Section	Fee/Penalty	Suggested
	Section 92-3	Misdemeanor punishable by a maximum fine of \$500	Standardize at the misdemeanor level maximum of \$1,000/one year.
Ch. 104, Sewers	Section	Fee/Penalty	Suggested
	Section 104-8	annual license fee of \$5.	
	Section 104-10	first conviction a fine to not exceed \$25 and for a second conviction within 18 months a fine of not more than \$50	Standardize at the violation level maximum of \$250/15 days or Standardize at the misdemeanor level maximum of \$1,000/one year.

FEES/ PENALTIES Cont.

Ch. 119, Solid Waste	Section	Fee/Penalty	Suggested
	Entire Chapter	Review Table of various offenses and fines	
Ch. 125, Storm Sewers	Section	Fee/Penalty	Suggested
	Section 125-21	penalty of not more than \$350	
Ch. 127, Subdivision of Land	Section	Fee/Penalty	Suggested
	Section 127-20.1E	(1) Residential R-5 District: \$300 per lot. (2) Residential R-4 District: \$325 per lot. (3) Residential R-3 District: \$350 per lot. (4) Residential District R-2: \$375 per lot. (5) Residential District R-1 and Restricted Agricultural RA: \$400 per lot. (6) Residential Multiple Use Districts R-M: \$350 per apartment unit.	Councilor Bollinger suggested to lower fees and collect for future parks

Major Decisions

REQUIRE BOARD REVIEW

Outline

- Ch.1, General Provisions- Art. II, Terminology (Pg. 8)
- Ch. 14, Ethics, Code Of (Pg. 10-12)
- Ch. 63, Buildings, Unsafe (Pg. 23-26)
- Ch. 104, Sewers (Pg. 33)
- Ch. 127, Subdivision of Land
 - Section 127-20.1E – Parkland Fees (Pg. 37)
- Ch. 155, Zoning
 - Definition of Family (Pg. 56-57) – See Attached Sample Definitions from other Towns.
 - Nonconforming Use Definition (Pg. 57)
 - Sign restrictions in § 155-26 (Pg. 59)

Code Legislation Issues

§ 155-10 - Residential District R-4.

The following structures and uses shall be permitted in a Residential District R-4:

B. The following uses only upon acquisition of a special permit from the ~~Town Board~~ **Planning Board** pursuant to Article IV, § 155-27, viz: hospitals, homes for elderly adults, convalescent homes, nursing homes and similar facilities, as well as cemeteries, landing fields and greenhouses.

E. Permitted zoning districts.

(1) RMSs are permitted in all zoning districts as an accessory structure to any lawfully permitted **principal use on the same parcel upon issuance of the proper permit pursuant to § 59-13 and** upon compliance with all requirements of this section and as elsewhere specified in this section.

(2) Small and medium GMSs are permitted on parcels larger than 40,000 square feet in all zoning districts as an accessory structure to any lawfully permitted principal use on the same parcel upon issuance of the proper permit pursuant to ~~§ 59-13~~ **§ 59-4** and upon compliance with all requirements of this section and as elsewhere specified in this section.

(3) Large GMSs are permitted as principal use upon issuance of the proper permit pursuant to ~~§ 59-13~~ **§ 59-4** and upon compliance with all requirements of this section and as elsewhere specified in this section. They shall be allowed in the following zoning districts:

Chapter 155-20.1 Residential Transitional District (RT).C. Uses involving the preparation of food, shoe repair shops, barbershops, beauty salons and similar uses shall only be permitted **upon issuance of an accessory use permit pursuant to Article IV, § 155-29 and special use permit by the ~~Town Board~~ **Planning Board** pursuant to § 155-27.**

Fee/Penalty Chart

Ch. 1, General Provisions	Section	Fee	Suggested
	Art. III, General Penalty 3-13-1991 as Ch. 1, § 1.10, of the 1991 Code	Maximum of \$250,	Standardize penalty at the violation level of \$250/15 days

Ch. 44, Animals	Section	Fee	Suggested
	Section 44-10/44-13	Minimum redemption fee \$50	
	Section 44-11/44-26A	\$50 First Offense, \$100 Second Offense, \$250 Third Offense	
	Section 44-22A(1)	No less \$50 or more then \$500	
	44-11C, 44-16D, 44-22A(2) and 44-26B	\$15 for issuance of a summons	

Ch. 48, Assemblies, Public	Section	Fee	Suggested
	Section 48-10	\$25 w-maximum of 250 persons or less - \$50 between 250 and not over 1,000 - \$100 in excess of 1,000 persons	
	Section 48-11D	Penalty of not more than \$500	Standardize at the misdemeanor level maximum of \$1,000/one year

Ch. 69, Fireworks	Section	Fee	Suggested
	Section 69-2	Penalty of not less than \$5 no more than \$100	Standardize penalty at the violation level of \$250/15 days

Ch. 72, Flood Damage Prevention	Section	Fee	Suggested
	Section 72-11B	Application fee \$50 and deposit amount not more than \$500	

Ch. 83, Littering	Section	Fee	Suggested
	Section 83-5	penalty of not less than \$50 no more than \$250	Standardize penalty at the violation level of \$250/15 days

Ch. 86, Noise Control	Section	Fee	Suggested
	Section 86-6	first offense, a fine up to \$250; second offense within a six month period, a fine up to \$375; and the third and each subsequent offense within a six-month period, a fine up to \$500	

Ch. 89, Peddling and Soliciting	Section	Fee	Suggested
	Section 89-12	Each Person Licensed Period of 6 months or less \$50; Period in excess of six months but not more than one year \$100	
	Section 89-12	Each Person Licensed to assist \$25 for a period of six months or less; \$50 for a period in excess of six months but for not more than one year	
	Section 89-17	Misdemeannor punishable by not more than \$250	Standardize at the misdemeanor level maximum of \$1,000/one year.

Ch. 92, Picketing	Section	Fee	Suggested
	Section 92-3	Misdemeannor punishable by a maximum fine of \$500	Standardize at the misdemeanor level maximum of \$1,000/one year.

Ch. 104, Sewers	Section	Fee	Suggested
	Section 104-8	annual license fee of \$5.	
	Section 104-10	first conviction a fine to not exceed \$25 and for a second conviction within 18 months a fine of not more than \$50	Standardize at the violation level maximum of \$250/15 days or Standardize at the misdemeanor level maximum of \$1,000/one year.

Ch. 119, Solid Waste	Section	Fee	Suggested
	Entire Chapter	Review Table of various offenses and fines	

Ch. 125, Storm Sewers	Section	Fee	Suggested
	Section 125-21	penalty of not more than \$350	

Ch. 127, Subdivision of Land	Section	Fee	Suggested
	Section 127-20.1E	(1) Residential R-5 District: \$300 per lot.	Do we still collect Park Land Fees?
		(2) Residential R-4 District: \$325 per lot.	
		(3) Residential R-3 District: \$350 per lot.	
		(4) Residential District R-2: \$375 per lot.	
		(5) Residential District R-1 and Restricted Agricultural RA: \$400 per lot.	
		(6) Residential Multiple Use Districts R-M: \$350 per apartment unit.	

Ch. 139, Vehicles and Traffic	Section	Fee	Suggested
	Section 139-11	All-night Parking with a fine \$20	
	Section 139-12.1	Fire lane fines of \$50	
	Section 1800(c)	Should a general Penalty Section be added	Every person convicted of a traffic infraction for a violation of any of the provisions of this chapter for which another penalty is not provided shall be punishable as proved in Section 1800 of Vehicle and Traffic law

Ch. 147, Water	Section	Fee	Suggested
	Section 147-7E	A fee of \$5 for testing of one inch or smaller meters and \$25 for larger meters	
	Section 147-9C	Restoration fee \$5 during regular business hours and \$7.50 during other than business hours.	
	Section 147-13	Penalty of not more than \$25	Standardize penalty at the violation level of \$250/15 days.

Examples of “Family” definitions from other towns with similar populations found in eCode.

Town of Dewitt

FAMILY

Persons occupying a dwelling unit and living together as a family unit. It shall be presumptive evidence that more than four persons living in a single dwelling unit who are not related by blood, marriage, domestic partnership, or legal adoption do not constitute the family unit. In determining whether individuals are living together as a family unit, the following criteria shall be present:

A. The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family.

B. The group shares expenses for food, rent or ownership costs, utilities, and other household expenses.

C. The group is permanent and stable. Evidence of such permanency and stability may include:

(1) The presence of minor dependent children regularly residing in the household who are enrolled in a local school.

(2) Members of the household having the same address for the purposes of voter registration, driver's license, motor vehicle registration and the filing of taxes.

(3) Members of the household are employed in the area.

(4) The household has been living together as a unit for one year or more whether in the current dwelling unit or other dwelling units.

(5) Common ownership of the furniture and appliances among the members of the household.

(6) The group is not transient or temporary in nature; and

(7) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

D. A fraternity or sorority will not be considered the functional equivalent of a family.

Town of Mount Pleasant

FAMILY

One or more persons occupying a dwelling unit and living as a single housekeeping unit in a domestic relationship, with kitchen facilities and other rooms used in common.

Town of Pittsford

FAMILY

One or more persons occupying a dwelling unit as a nonprofit household unit.

Town of Ithaca:

FAMILY

A. An individual, or

B. Two or more persons occupying a single dwelling unit, related by blood, marriage, or legal adoption, living, and cooking together as a single housekeeping unit, or

C. Two unrelated persons, occupying a single dwelling unit, living, and cooking together as a single housekeeping unit.

D. Notwithstanding the provisions of Subsection **C** of this definition, a group of unrelated persons numbering more than two shall be considered a family upon a determination by the Zoning Board of Appeals that the group is a functional equivalent of a family pursuant to the standards enumerated in Subsection **F** herein.

E. Before making a determination whether a group of more than two unrelated persons constitutes a family for the purpose of occupying a dwelling unit, as provided for in Subsection **D** of this definition, the Zoning Board of Appeals shall hold a public hearing, after public notice, as is normally required for the obtaining of a variance. The fee for such an application shall be the same as is required for an application for a variance. Said application shall be on a form provided by the Zoning Board of Appeals or Zoning Enforcement Officer.

F. In making a determination under Subsection **D** the Board of Appeals shall find:

(1) The group is one which in theory, size, appearance, and structure resembles a traditional family unit.

(2) The group is one which will live and cook together as a single housekeeping unit.

(3) The group is of a permanent nature and is neither merely a framework for transient or seasonal (including as "seasonal" a period of an academic year or less) living, nor merely an association or relationship which is transient or seasonal in nature. In making this finding, the Zoning Board of Appeals may consider, among other factors, the following:

(a) Whether expenses for preparing of food, rent or ownership costs, utilities, and other household expenses are shared and whether the preparation, storage and consumption of food is shared.

(b) Whether or not different members of the household have the same address for the purposes of:

[1] Voter registration.

[2] Driver's license.

[3] Motor vehicle registration.

[4] Summer or other residences.

[5] Filing of taxes.

(c) Whether or not furniture and appliances are owned in common by all members of the household.

(d) Whether or not any children are enrolled in local schools.

(e) Whether or not householders are employed in the local area.

(f) Whether or not the group has been living together as a unit for an extended period of time, whether in the current dwelling unit or other dwelling units.

(g) Any other factor reasonably related to whether or not the group of persons is the functional equivalent of a traditional family.

(4) In making determinations under this definition, the Zoning Board of Appeals shall not be required to consider the matters set forth in § 270-200 of this chapter.

G. Lesser permitted number.

(1) Notwithstanding the provisions elsewhere provided herein, if the following limitations result in a lesser permitted number of occupants than would be permitted under the definition of family set forth above and the regulations of each zone set forth later in this chapter, the number of occupants, related or otherwise, shall not exceed the maximum numbers determined on the basis of habitable space of each dwelling unit as follows:

- (a) A minimum of 150 square feet of habitable space for the first occupant; and
- (b) 80 square feet of habitable space for each additional person in each dwelling unit.

(2) In no case shall the enclosed floor area be less than required by § 270-220 of this chapter.

(3) Areas utilized for kitchenettes, bath, toilet, storage, utility space, closets, and other service or maintenance space shall be excluded in determining "habitable space."