

COLONIE LAND USE LAW
ADOPTED 1-4-07 by LOCAL LAW #1 of 2007

ARTICLE XXI - CHAPTER 190-21

Administration, Enforcement, Penalties

A. Generally.

- (1) Building permits required. In any district, no building or structure shall hereafter be erected, demolished or structurally altered, nor shall any excavation be made or footing or foundation be constructed therefor, nor shall there be any change of tenancy for use other than residential, until a permit authorizing the same shall have been issued by the authorized Town departments.
- (2) Fees; applications. An applicant for any review, approval or permit prescribed in this chapter shall not be authorized to obtain the same without first making payment of the required fee therefor as established by the Town Board and submitting the required application on such forms prescribed therefor. Additionally, should the department or board requiring an application required to be made by this chapter deem it necessary to hire consultants for technical review, the applicant shall be required to bear the expense, not to exceed the total cost to the Town. In addition, if deemed necessary by the reviewing department or board, the applicant shall be required to bear the costs of on-site inspection by technical consultants employed by the Town.
- (3) Completion of buildings under construction. Nothing herein contained shall require any change in the plans, construction or designated use of a building for which a building permit has been issued or which is actually under construction at the time of passage of this chapter and which entire building shall be completed within one year for a single-family dwelling, and two years for all other permits, from the date of the passage of this chapter.
- (4) A violation of any condition of a permit, approval, variance, special exception, special use permit, or other authorization granted or issued by any Board or Town department in the exercise of its jurisdiction pursuant to this Chapter shall be considered a violation of this Chapter, and subject to the enforcement and penalties provisions established herein.

B. Zoning Board of Appeals.

- (1) Organization.
 - (a) Members appointed by the Town Board. There shall be a Zoning Board of Appeals consisting of seven members appointed by the

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Town Board. The Board of Appeals shall have the power granted by and be controlled by the provisions of this Chapter, and as delegated to the Town Board by the Municipal Home Rule Law. Consistent with said section of the Town Law, the Board of Appeals shall determine its own rules and procedures, the manner in which appeals shall be brought before it and what notice shall be given of proceedings before it.

(b) Alternate members.

- [1] The Town Board may, by resolution, appoint up to two alternate members of the Board of Appeals. These individuals would serve when members are absent or unable to participate on an application or matter before the Board.
- [2] Alternate members shall serve for a term of three years.
- [3] The Chairperson of the Board of Appeals may temporarily replace a member with an alternate member, with full voting privileges, when such member is unable to participate 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.
- [4] All provisions of state law relating to Board of Appeals member eligibility, vacancy in office, removal, compatibility of office, and service on other boards, as well as any provision of a local law/ordinance relating to training, continuing education, compensation, and attendance, shall also apply to alternate members.

(2) Variances.

(a) Area Variances.

- [1] The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of these regulations, to grant area variances from the area or dimensional requirements of such regulations. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against any detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall follow criteria as set forth in the NYS Town Law.
- [2] The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the

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character of the neighborhood and the health, safety and welfare of the community.

[3] Imposition of Conditions - The Zoning Board of Appeals shall, in the granting of area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and to specify the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

(b) Use Variances.

[1] The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of these regulations, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the regulations.

[2] No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that they meet the criteria as set forth in NYS Town Law.

[3] Imposition of Conditions - The Zoning Board of Appeals shall, in the granting of use variances have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property, and to specify the period of time such variance shall be in effect. Such conditions shall be consistent with the spirit and intent of the zoning Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

C. Planning Board.

(1) Organization.

(a) Members appointed by the Town Board. There shall be a Planning Board consisting of seven (7) members appointed by the Town Board. Members of the Planning Board shall be appointed by the Town Board of the Town of Colonie for terms of three (3) years commencing upon the expiration of the term of each member of said Planning Board now holding office.

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- (b) Authorization. The Planning Board is hereby authorized to promulgate such rules, regulations and procedures as it deems reasonably necessary to administer the duties and responsibilities delegated to it hereunder pursuant to statute, local law, ordinance or Town Board resolution. Pursuant to this Chapter, as may be amended from time to time, such rules, regulations and procedures promulgated by the Planning Board hereunder may be adopted only after public hearing and are subject to final approval by the Town Board; and same shall become effective upon filing in the Town Clerk's Office.
 - (c) Power & Authority. The Planning Board shall have the power and authority to employ experts and a staff, and to pay for their services and such other expenses as may be necessary and proper, not exceeding the appropriations that may be made or authorized for such purposes.
- (2) Planning Board jurisdiction. The Planning Board shall hear and exercise the powers and duties relating to the following matters:
- (a) As may be authorized by the Town Board pursuant to statute, to prepare, review and make recommendations regarding a town comprehensive plan or amendments thereto; to prepare and change a master plan for the development of the entire area of the Town of Colonie outside the limits of the incorporated Villages of Colonie and Menands; to make investigations and reports relating to the planning of the town and its future growth and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population.
 - (b) To approve all plats showing any streets or highways within that part of the town outside the limits of the incorporated Villages of Colonie and Menands.
 - (c) To approve or disapprove changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the County Clerk's Office.
 - (d) To approve or disapprove the laying out of, closing off or abandonment of such streets, highways or public areas under and subject to the provisions of the New York State Laws.
 - (e) To make recommendations in connection with any proposed changes or amendments to the Code of the Town of Colonie which may, from time to time, be submitted to it by the Town Board.
 - (f) To review, make recommendations and/or approve or disapprove proposals for site plan review, special use permit, subdivision of land or conservation development, mobile home park site design or

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sites proposed for planned development districts as provided in this Chapter.

- (g) To hear and decide appeals from, make interpretations and review any order, requirement, decision or determination made by an administrative official charged with the administration or enforcement of any local law, statute or ordinance over which the Planning Board has jurisdiction to act hereunder. Such application for an interpretation or appeal may be made by any party aggrieved by such order, requirement, decision or determination, or by the administrative official.
 - (h) To implement and otherwise comply with all requirements of the State Environmental Quality Review Act (SEQRA).
 - (i) Without limitation, to exercise all other powers conferred upon it pursuant to this Chapter, as may be amended from time to time, including the conduct of hearings and the performance of its duties, and shall pass upon all matters which may be referred to it by resolution, ordinance or local law of the Town Board.
- (3) PEDD as Administrative agent of Planning Board. The Planning and Economic Development Department of the Town of Colonie (PEDD) is hereby authorized and designated to act as the administrative agent of the Planning Board for all matters within the Planning Board's jurisdiction.

D. Development Coordination Committee.

- (1) A Development Coordination Committee (DCC) shall be, and it hereby is, established.
- (2) The DCC shall consist of designated representatives of the Planning and Economic Development Department, Building Department, and Fire Prevention and Investigation Department, and the Department of Public Works Bureau of Engineering, Division of Latham Water, and Division of Pure Waters.
- (3) The purpose of the DCC shall be to give both the town and the project applicant an opportunity to gain a better perspective on the ramifications of the proposal, and to provide direction and feedback to the applicant based on the professional expertise of the DCC, the Town's current planning documents, and the design guidelines and other requirements of this Chapter, prior to the start of the formal review process for major site plan and major subdivision applications.

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E. Sign Review Board.

- (1) A Sign Review Board shall be, and it hereby is, established.
- (2) The purpose of this Board is to provide a process by which special exceptions may be issued consistent with the intent of the provisions of this Chapter related to signs, and to hear any appeals on questions of alleged error in any order or determination of the Building Department involving the interpretation of said provisions.
- (3) Membership.
 - (a) Membership shall consist of five residents of the Town appointed by the Supervisor with the approval of the Town Board. Vacancies shall be filled for an unexpired term in the same manner as the original appointment.
 - (b) Alternate members. There shall be one alternate member of the Sign Review Board. The Town Board hereby grants to the Chairman of the Sign Review Board the power to temporarily replace a member with an alternate member, with full voting privileges, where the member's abstention from a particular vote, due to absence or conflict of interest, precludes the Board member from taking action on a particular issue.
- (4) The Supervisor shall designate the Chairman of said Board the first day of each year.
- (5) The initial appointees of the Board shall have different terms ranging from one to five years. Thereafter, appointments shall be for five years to maintain five-year terms and yearly appointments.
- (6) Any person aggrieved by a decision of the Sign Review Board may have the decision reviewed by the Supreme Court of the State of New York in the manner provided by law.

F. Junkyard Review Committee.

Junkyard Review Committee; hearings. To further the purposes of this Chapter, there is hereby created the Town of Colonie Junkyard Review Committee, consisting of the Director of the Building Department, Chief Fire Inspector/Investigator and the Director of the Planning and Economic Development Department; the local Fire Chief of the fire district or fire company serving the fire protection district in which the junkyard is located shall be invited to serve as an ex officio member without having any vote.

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The Junkyard Review Committee may issue advisory opinions upon request and shall conduct public hearings regarding license revocation as provided in this Chapter and on all applications for annual licenses hereunder prior to the issuance of such licenses by the Building Department and shall have the authority to modify any regulations contained in this Chapter and/or additionally impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.

G. Flood Plains Management - local administrator.

The PEDD is hereby appointed to administer and implement the floodplains management provisions of this chapter by granting or denying development permit applications in accordance with said provisions.

H. Flood Plains Management Appeals Board.

- (1) The Flood Plains Management Appeals Board as established by the Town Board shall hear and decide appeals and requests for variances from the floodplain management requirements of this chapter.
- (2) The Flood Plains Management Appeals Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the PEDD in the enforcement or administration of the floodplain management provisions of this chapter.

I. Significant Environmental Areas Management Appeals Board (SEAMAB).

The SEAMAB as established by the Town Board shall hear and decide all

- (1) Appeals where it is alleged that there is an error in any requirement, decision or determination made by the PEDD in the administration or enforcement of the Watercourse Area Management provisions of this Chapter; and
- (2) Applications for variances from the requirements of the Watercourse Area Management provisions of this Chapter.

Those aggrieved by the decision of the Significant Environmental Areas Management Appeals Board may appeal such decision to the Supreme Court of New York State in the manner provided by law therefor. Such appeal shall be instituted within 30 days after the filing of said Board's decision in the office of the Town Clerk.

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J. Conservation Advisory Council.

The Conservation Advisory Council of the Town of Colonie as established by the Town Board shall:

- (1) Consist of five (5) or more members;
- (2) Advise in the promotion and development of natural resources of the Town;
- (3) Conduct research into the land areas of the Town and seek to coordinate the activities of bodies organized for similar purpose; and
- (4) Keep an index of open areas of land to obtain information pertinent to proper utilization of such open areas, including all wetlands and green areas.

K. Interpretation; diminishing of requirements; conflicts.

- (1) Interpretation. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements adopted for the promotion of the health, safety, comfort, convenience or the general welfare of the citizens of the Town of Colonie.
- (2) Conflicts with other provisions. In the event that any provision of any other Town of Colonie local law, ordinance or regulation conflicts with the provisions of this chapter, the more stringent provision shall be controlling.

L. Enforcement and Penalties for offenses.

- (1) In addition to the following penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this chapter.
- (2) The Director and Planning Staff of the Planning and Economic Development Department; the Director, Deputy Director and Building Inspectors of the Building Department; the Chief Fire Inspector/Investigator and/or Inspectors/Investigators of the Fire Prevention and Investigation Department; the engineering staff of the Department of Public Works, Bureau of Engineering; and Town Police Officers shall be and hereby are authorized to issue and serve appearance tickets with respect to any violation of this chapter.

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- (3) Penalties for offenses in violation of this Chapter.
- (a) Any person or persons, associations or corporations committing an offense against this chapter or any section or provision thereof is guilty of a violation.
 - (b) In the event of a continuing offense of any section or provision of this chapter, each day that such offense shall continue shall be a separate violation and subject to a separate fine, imprisonment or combination therefor.
 - (c) A conviction of a first violation is punishable by a fine of not more than \$350.00 or imprisonment for a period not to exceed six months, or both.
 - (d) A conviction of a second violation is punishable by a fine of not less than \$350.00 nor more than \$700.00 or imprisonment for a period not to exceed six months, or both.
 - (e) A conviction of a third or subsequent violation is punishable by a fine of not less than \$700.00 nor more than \$1000.00 or imprisonment for a period not to exceed six months, or both.
 - (f) Notwithstanding a conviction for an offense against any provisions or sections hereof, an association or corporation convicted shall be subject to revocation of any permit therein granted without reimbursement of fees paid thereof.
 - (g) In lieu of or in addition to any fine or imprisonment, or both, imposed for a conviction of an offense of this chapter, each such offense may be subject to a civil penalty not to exceed \$250 to be recovered in an action or proceeding in a court of competent jurisdiction. Each day an offense continues shall be subject to a separate civil penalty.
 - (h) The Town Attorney may maintain an action or proceeding in a court of competent jurisdiction to compel compliance with this chapter, for a penalty or other punishment.