Highways Law

[HISTORY: Adopted by the Town Board of the Town of Barrington 3-26-2024 by L.L. No. 2-2024 (Amendments noted where applicable.]

Part 1
General Provisions

Article I
General Requirements

§ 2-1 **Title; scope; purpose; authority.**

A. Title. This chapter shall be known as the "Highways and Private Roads Law of the Town of Barrington," hereinafter referred to as "this chapter."

B. Scope. This chapter shall apply to all Town highways and private roads as well as driveways and sidewalks that connect to Town highways that are located in the Town of Barrington, New York, which are outside the limits of the Village of

C. Purpose. The purpose of this chapter is to:

(1) Promote the public health, safety and general welfare through establishment of minimum specifications for the design and construction of Town highways and private roads as well as driveways and sidewalks that connect to Town highways.

(2) Establish minimum requirements for a road to qualify for Town acceptance (dedication).

(3) Establish minimum requirements for the preservation and protection of Town highways from high-frequency, high-impact traffic.

D. Authority. This chapter is adopted pursuant to the authority granted to the Town of Barrington, New York in § 10 of the Municipal Home Rule Law of the State of New York.

Article II
Definitions

§ 2-2 **General definitions.**

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

AASHTO

American Association of State Highway and Transportation Officials.

AGGREGATE BASE
The graded portions of a highway within top and side slopes, prepared as a foundation for the HMA and shoulders.

AGRICULTURAL EQUIPMENT
Shall have the meaning set forth at § 100-d of the Vehicle and Traffic Law of the State of New York.

APPLICANT
An owner engaging in building, land or site development as well as resource exploration and extraction.

APPROVED
Acceptable to the authority having jurisdiction.

AWWA
American Water Works Association.

CONTRACTOR
The individual, firm, or corporation undertaking the execution of the work under the terms of the contract and acting directly or through his, her, their, or its agents or employees.

COUNTY
Yates County, New York.

COUNTY HIGHWAY SUPERINTENDENT
The Superintendent of Highways of the County.

DESIGN LIFE
The number of years from the initial application of traffic until the first planned major resurfacing or overlay. This term should not be confused with pavement life or analysis period.

FARM OPERATION
Shall have the meaning set forth at Subdivision 11 of § 301 of the Agriculture and Markets Law of the State of New York.

FHWA
United States Department of Transportation, Federal Highway Administration.

FIRE CHIEF
The chief officer of the fire department serving the jurisdiction, or a duly authorized representative.

FIRE DEPARTMENT

The governmental or other organization that is responsible for providing fire protection and other emergency services to an area.

GUARD RAIL

A railing, boundary feature or other safety device placed and located on Town Roads to prevent vehicles and residents from a dangerous area. No guard rail shall be modified or removed from the Town's roadways or right-of-way.

HIGH-FREQUENCY, HIGH-IMPACT TRAFFIC

Traffic to and from a single project site that generates more than 10 truck trips per day for more than four consecutive days, involving trucks that exceed 20 tons, which is truck and load combined, that could impact Town highways. (Reference Local Law 1-2013 Town Roads)

HIGHWAY

The entire width, which is between the bounded lines of a right-of-way, that is publicly maintained and open to the use of the public for purposes of vehicular travel. For the purposes of this chapter, this term shall be deemed to include necessary sluices, drains, ditches, waterways, embankments, retaining walls and culverts having a width of opening of 20 feet or less except as provided in § 230 of the Highway Law of the State of New York, and also the approaches of any bridge or culvert beginning at the back of the abutments. The pavement over any such bridge or culvert may also be included as a part of the highway provided such pavement is separated from such structure by an earth fill.

HMA

Hot mixed asphalt.

LAND SURVEYOR

A land surveyor licensed or otherwise authorized to practice surveying under Article 145 and registered or otherwise authorized under Article 130 of the Education Law of the State of New York.

LOT OF RECORD

Lands designated as a separate lot on a plat or deed recorded in the Office of the County Clerk.

MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD)

This term consists of the Manual on Uniform Traffic Control Devices for Streets and Highways, which is approved by the FHWA, and the New York State Supplement to the National Manual on Uniform Traffic Control Devices for Streets and Highways. These documents prescribe standards for the design, location, use, and operation of traffic control devices.

NFPA

National Fire Protection Association.

NONSTANDARD, SUPPLEMENT/DISCRETIONARY SIGN

A sign that is either not contained in the MUTCD and the New York State Supplement to the MUTCD, and is not required by the MUTCD and the New York State Supplement to the MUTCD. This sign group contains signs such as but not limited to Town zoning law signs, watershed districts and local associations. They are not considered to be regulatory, warning or guide/informational signs.

NYSDEC

New York State Department of Environmental Conservation.

NYSDOH

New York State Department of Health.

NYSDOT

New York State Department of Transportation.

NYSDOT STANDARD SPECIFICATIONS

The New York State Department of Transportation's Standard Specifications, which is amended from time to time.

OWNER

An owner shall mean any person, agent, operator, firm or corporation having a legal or equitable interest in the lot of record as recorded in the official records of County as holding title to said lot.

PLANS

The official drawings and applicable standard sheets, which show the location, character, dimensions and details of the work to be performed.

PRIVATE ROAD

A privately owned and maintained road allowing access to more than one lot of record. (Reference the Town's Subdivision Law, Article V, and the Town's current Comprehensive Plan.)

PROFESSIONAL ENGINEER

A professional engineer licensed or otherwise authorized to practice engineering under Article 145 and registered or otherwise authorized under Article 130 of the Education Law of the State of New York.

RIGHT-OF-WAY (ROW)

A general term denoting land, property or interest therein, usually in a strip, acquired for or devoted to a highway. In the Lake Residential zone the Town utilizes a 16 ½ feet from the highway center line. All other town roads shall be 25 feet from the center line.

ROAD SECTION

That portion of a highway included between the top of the slope in cut and the bottom of slope in fill.

ROADWAY
The portion of a highway included between the outside edges of the shoulders.

SHOULDER
The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

SIDEWALK
The portion of a highway or private road that is intended for the use of pedestrians and is located between the curb lines or the lateral lines of a roadway and the front lot line of a contiguous lot of record.

STORED
Any item that is located on a Town highway for longer than a twenty-four-hour period.

TOWN
Town of Barrington, New York.

TOWN ATTORNEY
The Town Attorney of the Town.

TOWN BOARD
The Town Board of the Town.

TOWN CLERK
The Town Clerk of the Town.

TOWN ENGINEER
Any professional engineer and/or a firm, which either shall be employed by the Town, that practices professional engineering and management work relating to the design and construction of municipal infrastructure projects, management of capital programs and all other related work as may be required by the Town.

TOWN HIGHWAY
Town highways are those constructed, improved or maintained by the Town with the aid of the State of New York or Yates County, under the provisions of the Highway Law of the State of New York, that are outside of the Village of Penn Yan, New York.

TOWN HIGHWAY SUPERINTENDENT
The Superintendent of Highways of the Town.

TRAFFIC CONTROL DEVICE

A sign, signal, marking, or other device used to regulate, warn, or guide traffic, placed on, over, or adjacent to a highway open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

TRAVELED WAY

The portion of the roadway for the movement of vehicles, exclusive of the shoulders.

UNIFORM CODE

The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

VEHICLE

All vehicles designed for use in air and/or on roads, off-roads or waterways, including but not limited to aircraft, automobiles, boats, buses, bicycles, trailers, tractors, marine vessels, motor homes, travel trailers, campers, motorcycles, mini-bicycles, all-terrain vehicles, recreational vehicles and snowmobiles.

Part 2
Town Highways

Article III
General Provisions

§ 2-3 **Policy.**

It is the policy of the Town to entertain applications for the acceptance of Town highways and to adopt and adhere to an orderly procedure for the receipt of, and acting upon, such application. The decision of an application for acceptance of a Town highway is reserved to the sole and absolute discretion of the Town Board who will consider the grant or denial of an application on the basis of the best interest of the inhabitants of the Town. With this policy in mind, the Town Board will consider applications to accept Town highways only if the completed highway conforms to this chapter. The Town Board shall not accept substandard highways.

§ 2-4 **Compliance required.**

A. No person shall construct a Town highway except in accordance with the provisions of this Part 2.

B. Exemption(s).

(1) The Town recognizes that there are Town highways that were constructed inconsistent with the standards herein. Such highways were lawfully created prior to the adoption of this chapter. Therefore, such highways are declared to be legally nonconforming Town highways in order to continue and undergo routine maintenance for safety purposes but also to allow new building construction to occur on any lot of record whose access is from such highway. Lastly, an increase in the number of lots accessing a nonconforming Town highway shall be allowed only if

such action conforms to Barrington's Subdivision Law, and the Zoning Code of the Town of Barrington.

§ 2-5 **Petition to Town.**
Any applicant may petition to the Town Board to lay out, alter, widen, or extend either an existing or proposed Town highway in accordance with Article 7 of the Highway Law of the State of New York.

§ 2-6 **Application.**
An applicant shall file an application therefore in writing on a form furnished by the Town for that purpose. Such application shall contain the following:

A. The applicant's name and address, and the applicant's signed consent to the filing of this application;

B. Identify and describe the work for which application is made;

C. Describe the land on which the proposed work is to be done by legal description, premises identification numbers or similar description that will readily identify and definitely locate the proposed work;

D. State the valuation of the proposed work;

E. A project schedule;

F. Be accompanied by plans and other information;

G. Payment of any applicable fees and incurred costs; and

H. Give such other data and information as required by the Town Highway Superintendent.

§ 2-7 **Plans.**
Plans shall be prepared, signed and sealed by a professional engineer and two complete sets submitted to the Town. No construction shall begin until such plans are approved by the Town. Furthermore, the plans shall conform to the design and construction specifications of this chapter and shall include all of the following, if applicable:

A. Stormwater management plan.

B. Erosion and sediment control plan.

C. Design criteria used.

D. The proposed name of any new Town highway.

E. Location and alignment survey performed by a land surveyor that includes:

(1) Original and finished grades;

(2) The layout and locations of all highways and their metes and bounds;

(3) The location of any property lines and their metes and bounds;

(4) The location of the Town's right-of-way;

(5) The location of any other rights-of-way and easements including a statement of their allowable uses;

(6) The location of all drainage structures;

(7) The location of any utilities in the right-of-way;

(8) The names of adjacent property owners to the roadway; and

(9) Location and type of all signs and traffic control devices.

F. A maintenance plan for the roadway.

G. A cross-section of a typical tangent section.

H. If there is a situation that the HIghway Superintendent feels additional information or requirements are needed, he/she has the authority to require them.

§ 2-8 **Security; performance bond.**

A. Prior to the start of construction of any Town highway, the applicant shall deposit with the Town Clerk a performance bond by a bonding company licensed to do business in New York or acceptable surety or shall deposit with the chief fiscal officer of the Town acceptable negotiable government bonds, cash or certified check drawn upon a national or state bank payable at sight to the Town Board, guaranteeing that:

(1) Within two years, the applicant will complete the construction of all required improvements within the right-of-way in accordance with the approved plans.

(2) Upon certification by a professional engineer and recommendation by the Town Highway Superintendent that the construction of the Town highway has been completed in accordance with the approved plans, the applicant will dedicate such highway free and clear of all liens and encumbrances. This guarantee of dedication shall apply to the owner of the property as well as the applicant where the two are not synonymous.

B. As guarantee for the performance of the above requirements, the applicant shall deposit, as heretofore set forth, a surety bond, negotiable government bonds, cash or a certified check in the amount of 100% of the total construction cost. This amount shall be determined by the Town Highway Superintendent. Upon recommendation by the Town Highway Superintendent that the construction of the right-of-way has been completed by the applicant in accordance with the approved plans and after the Town Board has been satisfied that the stipulated guaranties have been complied with, the Town Board may release the bond, surety, cash or certified check to the applicant or his or her assigns, except that the Town Board shall require a maintenance bond in

the amount of 10% of the original highway bond for a period of one year from the date of such official completion as guaranty that the applicant shall maintain such completed right-of-way as set forth herein. At the expiration of the one-year maintenance period, the Town Board shall release such maintenance guaranty to the applicant or his or her assigns, provided that prior to such final release of guaranty, the Town Board may deduct from such deposit all just charges for any maintenance, exclusive of charges for plowing of snow which the Town may have incurred for work on such right-of-way during the one-year period. The Town Highway Superintendent will request a hold-harmless agreement for any damage done during winter maintenance operations such as sanding, salting or plowing.

§ 2-9 **Insurance.**

The applicant shall procure and maintain at his or her own expense and without expense to the Town, until final acceptance by the Town of the work covered by approved plans, insurance for damages imposed by law, of the kinds and in amounts hereafter provided, in insurance companies authorized to do such business in the State of New York covering all operations under the approved plans, whether performed by him or her or contractors. Before commencing the work, the applicant shall furnish to the Town a certificate or certificates of insurance in form satisfactory to the Town showing that he or she has complied with this subsection, which certificate or certificates shall provide that the policies shall not be changed or canceled until 30 days' written notice has been given to the Town. The kind and amount of insurance is as follows:

A. Statutory Workers Compensation or a signed New York State Workers Compensation Board Form C-105.21 (8-98); and

B. General liability insurance; single limits of liability $1,000,000; or

C. Owner's and contractor's protective liability covering operations of subcontractors, with same limits; and

D. Contractual liability covering hold-harmless clause; and

E. Automobile public liability and property damage covering both owned and hired vehicles (bodily injury $1,000,000 each person; $1,000,000 each accident); and

F. If any of the rating classifications embody property damage exclusions X (explosion), C (collapse), or U (upheaval), coverage for eliminating such exclusions shall be provided with same limits; and

G. Thirty days' written notice of cancellation in favor of the Town; and

H. Certificate holder shall be the "Town of Barrington."

§ 2-10 **Maintenance prior to final acceptance.**

The applicant shall maintain the highway giving access to the development in such condition that the residents shall have safe, convenient access. The minimum conditions for such access are listed below:

A. The roadway shall be maintained on a continuing basis. Soft spots or other structural defects shall be repaired immediately by excavation and replacement with approved material. Potholes and edge raveling shall be remedied on a continuing basis or as ordered by the Town Highway Superintendent. Such repairs shall be made with HMA unless approved otherwise by the Town Highway Superintendent.

B. Drainage swales and/or a storm sewer system shall be kept clean and operational.

§ 2-11 **Dedication.**
The following criteria shall be satisfied before the Town Board accepts of a new Town highway:

A. A set of as-built plans of the Town highway, showing ROWs, drainage and utility easements where installed by the applicant and a roadway center-line profile shall be submitted to and approved by the Town Highway Superintendent. These plans must bear the stamp of a professional engineer.

B. Metes and bounds description of all ROWs and easements prepared by a land surveyor shall be submitted to and approved by the Town Highway Superintendent.

C. Deeds shall be reviewed and approved by the Town Attorney as to form and sufficiency. A title insurance policy may be substituted in lieu of a title search if approved by the Town Attorney.

D. The work completed on the Town highway shall be approved by the Town Highway Superintendent, with which the Town Board shall receive written documentation of such approval.

E. Approved monuments shall be set according to the NYSDOT's Land Surveying Standards and Procedures Manual or as directed by the Town Highway Superintendent, and their locations shall be shown on the set of as-built plans.

Article IV
Design Specifications

§ 2-12 **Compliance required.**
All Town highways shall be designed in accordance with the Town of Barrington's standard detail for Town highways and the following design specifications as stipulated in this article.

§ 2-13 **Responsibility.**
Applicants are responsible for providing sound engineering design of all highways and its appurtenances. The design shall be prepared by a professional engineer experienced in the design of such work. Design information, engineering reports, plans and specifications shall provide the information required by this chapter and additional information that may be required by the Town Highway Superintendent. Boundary surveys shall be performed and certified by a land surveyor. All revisions to the originally submitted plans shall be noted and dated by the applicant's professional engineer on revised plans, and shall be submitted for approval by the Town Highway Superintendent.

§ 2-14 **Certification.**

A. All Town highways shall be certified by a professional engineer that they are designed to meet the following standards, listed here in order of precedence:

(1) Manual: Guidelines for Rural Town and County Roads, State of New York, Local Roads Research and Coordination Council, as amended from time to time.

(2) Guidelines for Geometric Design of Very Low-Volume Local Roads, AASHTO, as amended from time to time.

(3) Policy on Geometric Design of Highways and Streets, AASHTO.

B. The requirements listed in these standards are for low-volume roads with a maximum average daily traffic (ADT) of 400 vehicles per day. For this reason, any highway that does not meet the definition of a low-volume road will require standards that are more stringent than those listed above. In such a case, the entire design shall be approved by the Town Highway Superintendent prior to the start of construction. Lastly, all design criteria shall be listed on the plans and any criteria not listed in the standards listed above shall be determined by using acceptable engineering practices, which such documents shall designate the source of any design assumptions.

§ 2-15 **Additional design criteria.**
The design of all Town highways shall conform to all of the following criteria unless approved otherwise by the Town Highway Superintendent:

A. Design life. The minimum design life shall be 20 years.

B. Drainage. Drainage facilities designed to handle a fifty-year storm under the roadway and twenty-five-year storm on all other facilities; the minimum size opening of any pipe is 12 inches in diameter or equivalent.

C. Geometric design. Geometric design features shall be consistent with a minimum design speed of 45 miles per hour (mph).

D. Grade. The maximum grade shall be 10%. The average grade shall be no more than 8%, with the grade not exceeding 3% of the first 70 feet of highway from an intersection.

E. Intersection.

(1) Intersections of highways shall be at angles as close to 90° as possible, and in no case shall two highways intersect at an angle smaller than 75°. To this end, where one highway approaches another, between 75° and 90°, the new highway should be curved approaching the intersection. A tangent of at least 50 feet is required for any intersecting highway.

(2) Intersections involving a junction of more than two highways, with the exception of traffic circles, shall be prohibited unless approved ahead of time by the Town Highway Superintendent.

(3) To avoid dangerous jogs, highways should be designed to intersect directly opposite of each other or have a minimum centerline offset of 200 feet.

(4) All intersections shall be designed to avoid the accumulation of water.

F. ROW and travel way.

(1) The width of ROWs and traveled ways shall be measured at right angles to the centerline of the highway and shall not be less than the following:

(a) ROW: 50 feet.

(b) Traveled way: 20 feet.

(2) Exception(s):

(a) ROWs may be wider in many cases and their width should be illustrated on the plans.

G. Shoulders. The minimum shoulder width shall be two feet.

I. Traffic control devices. Traffic control devices shall be designed in accordance to the MUTCD, as amended from time to time.

(1) Highway names. Highways that form an extension to existing highway of abutting or neighboring lots of record shall bear the same name. Names of new highways shall not duplicate, nor bear phonetic resemblance to the names of existing highways or private roads within the Town.

§ 2-16 **Erosion and sediment control plan.**
The applicant shall submit an erosion and sediment control plan that is prepared, signed and sealed by a professional engineer that describes the proposed area of disturbance, temporary and permanent erosion control measures that is consistent with technical standards, including, but not limited to, the New York State Standards and Specifications for Erosion and Sediment Control, most current version or its successor.

§ 2-17 **Stormwater management plan.**
The applicant shall submit a stormwater management plan that is prepared, signed and sealed by a professional engineer that contains provisions to control erosion and sedimentation and reduce the impacts of stormwater; stormwater infiltration and runoff from the site based on the technical standards including, but not limited to, the New York State Stormwater Management Design Manual, most current version or its successor.

§ 2-18 **Dead-end highways.**
With any new construction, Town highways shall not be designed and constructed as dead-end highways.

Article V
Construction Specifications

§ 2-19 **Compliance required.**

The construction of Town highways shall conform to the design requirements of Article **IV** of this chapter and the latest revision of the NYSDOT Standard Specifications, including any NYSDOT Engineering Instructions or Bulletins, as well as the sections within this article unless alternatives are approved by the Town Highway Superintendent, in writing, in advance.

§ 2-20 **Erosion and sediment control.**
The applicant shall provide permanent and temporary erosion control measures to minimize erosion and sedimentation during and after construction according to approved erosion and sediment control plans. The applicant shall not modify the type, size, or location of any control or practice without approval from the authority having jurisdiction.

§ 2-21 **Stormwater management.**
The applicant shall provide permanent and temporary stormwater management measures to minimize stormwater-related concerns during and after construction according to approved stormwater management plan. The applicant shall not modify the type, size, or location of any control or practice without approval from the authority having jurisdiction.

§ 2-22 **Subgrade.**
The width of the subgrade shall be equal to the width of the aggregate base. The elevation of the subgrade is determined by the approved design drawings and details.

§ 2-23 **Underdrains.**
Perforated underdrain pipe, wrapped in geotextile drainage fabric or approved backfill material, may be required by the Town Highway Superintendent where side hill seepage is encountered or in any other area where groundwater will impair the integrity of the Town highway.

§ 2-24 **Utilities.**
After the subgrade has been approved, all utilities designed to be installed within the highway's right-of-way shall be installed in accordance with the specifications of the authority having jurisdiction. All utilities shall be installed prior to the installation of the aggregate base and HMA unless approved otherwise by the Town Highway Superintendent.

§ 2-25 **Geotextile stabilization fabric.**
Geotextile stabilization fabric is required under the aggregate base. This requirement may be waived by the Town Highway Superintendent if such base is built on solid rock or similar geological formations. The waiver must be obtained in writing prior to proceeding with work.

§ 2-26 **Aggregate base.**

A. The aggregate base shall be at least 12 inches compacted depth. The material used shall be NYSDOT Spec 667 Type B.

B. The aggregate base shall cover the entire area of the subgrade.

C. A thicker aggregate base may be required for special conditions, including but not limited to high traffic volume and/or poor subgrade conditions.

D. The aggregate base shall be installed in lifts not to exceed six inches.

E. Once the aggregate base has been placed, no vehicular traffic shall be permitted until such time that the HMA has been placed unless approved otherwise by the Town Highway Superintendent.

§ 2-27 **HMA.**

A. The overall depth of the HMA layer shall not be less than four inches unless approved in advance by the Town Highway Superintendent. All HMA materials shall be placed in accordance with the most current NYSDOT specifications.

Article VI
Quality Assurance

§ 2-28 **Inspection(s).**

A professional engineer shall be retained by the applicant for construction inspection(s) and such engineer shall be approved by the Town. The professional engineer shall provide daily reports, pictures of work, and certification of all work to the Town Highway Superintendent prior to any work being accepted by the Town. The applicant shall provide the necessary manpower and equipment required for inspections. The presence of the professional engineer at the work site shall in no way lessen the applicant's responsibility for conforming to the approved plans. Should such engineer accept materials, or work that does not conform to the approved plans, whether from lack of discovery or for any other reason, it shall in no way prevent later rejection of, or corrections to, the unsatisfactory materials or work when discovered. The applicant shall have no claim for losses suffered due to any necessary removals or repairs resulting from the unsatisfactory work. Any work which has been covered without the professional engineer's approval, shall, at such engineer's request, be uncovered and be made available for inspection at the applicant's expense.

§ 2-29 **Certification(s).**

Written certification by a professional engineer shall be required from the applicant certifying to the Town, NYSDEC, NYSDOH, or any other applicable regulatory agency that the highway, utilities, erosion and sediment controls, and/or stormwater management systems were constructed in accordance with the approved plans.

Article VII
Storage on Town Highways

§ 2-30 **Purpose.**

The purpose of this article is to regulate parking and storage on Town highways in order to expedite the maintenance and the safety of the traveling public.

§ 2-31 **Vehicles.**

A. No vehicle shall be stored on a Town highway unless approved otherwise by the Town Highway Superintendent.

B. Exemption(s):

(1) The temporary stopping or leaving of a vehicle where such vehicle has become disabled while on the Town highway to such an extent that it is impossible to move the vehicle.

(2) The stopping of a vehicle to avoid conflict with other traffic or to comply with traffic signs, signals or the directive of a law enforcement officer.

(3) The stopping of a vehicle of a public utility where such action is necessary to maintain, install, repair, construct or inspect a service or other component of such utility.

(4) The stopping of an emergency operation vehicle, fire vehicle, emergency ambulance service vehicle, environmental emergency response vehicle, hazardous materials emergency vehicle or police vehicle as defined in Article 1 of the Vehicle and Traffic Law of the State of New York.

§ 2-32 **Materials.**
No construction materials, debris or any other types of material shall be stored on a Town highway unless approved otherwise by the Town Highway Superintendent. When approved, such materials shall be stored so as not to endanger the public, Town highways, utilities and/or adjoining property.

Part 3
Private Roads

Article VIII
Private Roads

§ 2-33 **Purpose.**
The purpose of this article is to protect and promote the public health, safety, comfort, convenience, and general welfare of the Town by regulating the design and construction of private roads. These minimum standards are necessary to ensure that private roads remain passable in all weather conditions and are adequate to provide safe, year-round access by fire, police and other public and emergency vehicles. They are also necessary to ensure the proper design of private roads in order to promote sustainable development and to maintain the rural character of the Town.

§ 2-34 **Compliance required.**
A. No person shall construct a private road except in accordance with the provisions of this Part 3.

B. Exemption(s).

(1) The Town recognizes that there are private roads that were constructed inconsistent with the standards herein. Such roads were lawfully created prior to the adoption of this chapter. Therefore, such roads are declared to be legally nonconforming private roads in order to continue and undergo routine maintenance for safety purposes but also to allow new building construction to occur on any lot of record whose access is from such road. Lastly, an increase in the number of lots accessing a nonconforming private road shall be allowed only if such action conforms to Barrington Subdivision Law and the Zoning Code of the Town of Barrington.

§ 2-35 **Approvals required to create a private road.**

A. Highway approval. The authority having jurisdiction (i.e., NYSDOT, County Highway Superintendent or Town Highway Superintendent) of the highway that abuts a private road shall approve said abutment prior to a site plan being submitted to the Planning Board for its approval as prescribed in this section. Written evidence of said approval shall be submitted to the Planning Board as part of its approval of said plan.

B. Planning Board. A site plan, which shall be signed and sealed by a professional engineer, of a private road showing its location, name, number and dimensions of lots of record to be serviced shall be approved by the Planning Board prior to the start of construction.

C. Town Attorney. The private road easement and maintenance agreement shall be reviewed and approved by the Town Attorney prior to a site plan being submitted to the Planning Board for its approval as prescribed in this section. Written evidence of said approval shall be submitted to the Planning Board as part of its approval of said plan.

§ 2-36 **Specifications.**
The design and construction of any private road shall conform to all of the following criteria:

A. Abutment to a highway. A private road shall abut a highway.

B. Dead-end roads. Private roads may be permitted to be designed and constructed as dead end roads. All dead-end roads shall conform to the Uniform Code as it pertains to the design and construction of fire apparatus access roads.

C. Erosion and sediment control plan. The applicant shall submit an erosion and sediment control plan that is prepared, signed and sealed by a professional engineer that describes the proposed area of disturbance, temporary and permanent erosion control measures that is consistent with technical standards including, but not limited to, the New York State Standards and Specifications for Erosion and Sediment Control, most current version or its successor.

D. Stormwater management plan. The applicant shall submit a stormwater management plan that is prepared, signed and sealed by a professional engineer that contains provisions to control erosion and sedimentation and reduce the impacts of stormwater; stormwater infiltration and runoff from the site based on the technical standards including, but not limited to, the New York State Stormwater Management Design Manual, most current version or its successor.

E. Traffic control devices. Traffic control devices shall be designed in accordance to the MUTCD, as amended from time to time.

(1) Private road names. Private roads which form an extension to existing private road of abutting or neighboring lots of record shall bear the same name. Names of new private roads shall not duplicate, nor bear phonetic resemblance to the names of existing highways and private roads within the Town.

F. Uniform Code. The applicant shall submit plans that is prepared, signed and sealed by a professional engineer that documents compliance with the applicable provisions of the Uniform Code as it pertains to the design and construction of a fire apparatus access road.

§ 2-37 **Certification(s).**
Written certification by a professional engineer shall be required from the applicant certifying to the Town, NYSDEC, NYSDOH, or any other applicable regulatory agency that the private road, utilities, erosion and sediment controls, and/or stormwater management systems were constructed in accordance with the approved plans.

§ 2-38 **Maintenance agreement.**
A private road maintenance agreement, in a form approved by the Town Attorney, shall be recorded as part of the deed for every lot to which the private road provides access. A hold harmless clause in favor of the Town and its agents, boards, staff and consultants regarding design, construction and maintenance of a private road shall be incorporated into such agreement.

§ 2-39 **Easement.**
A private road easement for ingress and egress as well as for utilities, in a form approved by the Town Attorney, shall be recorded as part of the deed for every lot to which the private road provides access.

Part 4
Driveways

Article IX
Driveways

§ 2-41 **Purpose.**
The purpose of this article is to promote the safety, health and general welfare by regulating the design and construction of driveways located within a Town highway.

§ 2-42 **Permit required.**
A driveway permit shall be issued in accordance with Article **X** of this chapter prior to any work being executed for a driveway that abuts a Town highway.

§ 2-43 **Compliance required.**

A. No person shall construct or maintain a driveway in the Town except in accordance with the provisions of this article.

B. Exemption(s).

(1) The Town recognizes that there are driveways that were constructed inconsistent with the standards herein. Such driveways were lawfully created prior to the adoption of this chapter. Therefore, such driveways are declared to be legally nonconforming driveways in order to continue and undergo routine maintenance for safety purposes but also to allow new building construction to occur on any lot of record whose access is from such driveway.

§ 2-44 **Specifications.**

A. Driveway. The design and construction of any driveway shall conform to the same standards and/or guidelines that have been adopted by the Yates County Highway Department as well as the following criteria:

(1) A driveway shall be located entirely within the owner's frontage and have a minimum setback distance of five feet from an adjoining lot's property line unless approved otherwise by the Town Highway Superintendent.

(2) One driveway shall be permitted for each lot of record. The first driveway will be constructed for free by the Town, after the applicant pays for the pipe. An additional driveway may be permitted by the Town Highway Superintendent if sufficient frontage exists and extenuating circumstances justify a second driveway.

(3) All driveways shall be constructed to slope away from the edge of the Town highway's traveled way at the same slope as the Town highway's shoulder.

(a) Exemption(s):

(1) The Town recognizes that it may not be possible for a driveway to be constructed to slope away from the edge of the Town's highway due to the natural topography of land. In such cases, the Town Highway Superintendent is permitted to approve driveways sloping towards the edge of the Town's highway but shall require a driveway trench drain, open french drain or other types of drainage methods to be installed throughout the entire width of such driveway near the edge of the Town's highway. The location of water discharge from such drainage shall be approved by the Town Highway Superintendent. Lastly, the owner shall be responsible for the installation and maintenance of such drainage.

(2) A driveway shall not adversely affect the Town highway's drainage or drainage of adjacent properties. Drainage and the stability of the Town highway shall not be impaired by driveway construction or other type of roadside development. In no case shall the construction of a driveway cause water to flow across/into the Town highway's traveled way, pond on the Town highway's shoulder or pond in the drainage ditch.

B. Culvert pipe. Where construction of a driveway necessitates crossing a Town highway's drainage ditch, a culvert pipe of adequate capacity shall be installed. The placement and location of a culvert pipe shall be designed and constructed to the same standards and/or guidelines that have been adopted by the Yates County Highway Department.

(1) Work to be installed by the Town. All new culvert pipes proposed to be installed within a Town highway shall be executed by the Town. The owner shall purchase all culvert pipe material and fittings as required by the Town Highway Superintendent. Upon notice from the owner that such materials and fittings have been obtained, the Town Highway Superintendent shall schedule such work to begin within 15 working days or as soon as the work can reasonably be scheduled.

(2) Exemption(s).

(a) In case of a hardship due to scheduling or other constraints, the owner may employ a contractor to install a culvert pipe within a Town highway. However, such action shall be executed in accordance to the following requirements:

[1] All work shall be conducted by a contractor approved by the Town Highway Superintendent.

[2] The contractor shall supply a current certificate of insurance before the commencement of any work. The contractor shall have proof of general liability coverage in a minimum amount of $1,000,000. This insurance shall include coverage for owned, non owned and hired vehicles. During work in the Town highway's right-of-way, the above referenced insurance shall not be canceled without 30 days' written notice to the Town Highway Superintendent.

[3] No work by a contractor shall begin until the application fee is paid to the Town. However, no installation fee shall be required by the Town when the installation is permitted to be done by a contractor as provided in this exception.

[4] All work performed by a contractor will be subject to a final inspection and acceptance by the Town Highway Superintendent. The owner shall request a final inspection when the contractor is still on-site. Should the installation not be done in an approved manner, the Town Highway Superintendent shall direct the owner to correct the work to his or her satisfaction. Such corrective work shall be paid by the owner.

§ 2-45 **Fire apparatus access road required.**
A driveway shall be designed and constructed as a fire apparatus access road when required by the Uniform Code.

§ 2-46 **Maintenance.**
Owners having access to a Town highway shall be fully responsible for maintenance of their driveway and channelization including the portion from the Town highway's right-of-way to the outside edge of such highway's shoulder. This maintenance responsibility includes removal of snow and ice, and keeping the portion of the Town highway's right-of-way in a safe condition for the general public.

Part 5
Permits

Article X
Driveway Permits

§ 2-56 **Permit required.**
It shall be a violation of this chapter for any person or entity to excavate, disturb and/or install a driveway or culvert pipe within any drainage swale located within a Town highway without first obtaining a driveway permit from the Town Highway Superintendent. Such permit shall also be required for existing driveways or culvert pipes being widened or reconstructed.

§ 2-57 **Application.**

Applications for a driveway permit shall be made on forms furnished by the Town Highway Superintendent.

§ 2-58 **Emergencies.**
Nothing in this article shall be construed to prevent repairs to driveways and/or culverts as may be necessary for the preservation of life or property, provided that the owner shall apply for a driveway permit on the first working day after such repairs have commenced.

§ 2-59 **Specifications.**
Construction activity for a driveway performed within a Town highway shall conform to the same standards and/or guidelines that have been adopted by the Yates County Highway Department and any other applicable provisions of this chapter.

Article XI
Highway Work Permit

§ 2-60 **Permit required.**

A. It shall be a violation of this chapter for any person or entity to disturb the ground or pavement as well as installing signs in any Town highway without first obtaining a highway work permit from the Town Highway Superintendent. Where an excavation is limited to construction of a driveway, the rules and regulations for driveway permits shall apply.

B. Exemption(s):

(1) A highway work permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

§ 2-61 **Application.**
Applications for a highway work permit shall be made on forms furnished by the Town Highway Superintendent.

§ 2-62 **Emergencies.**
Nothing in this article shall be construed to prevent work as may be necessary for the preservation of life or property, provided that any such person making such work shall apply for a highway work permit on the first working day after such excavation is commenced.

§ 2-63 **Specifications.**
Construction activity performed within a Town highway shall conform to the same standards and/or guidelines that have been adopted by the Yates County Highway Department and any other applicable provisions of this chapter.

Article XII
Highway Preservation Use and Repair Agreement

§ 2-64 **Purpose.**

A. The purpose of this article is to maintain the safety and general welfare of Town residents by regulating high-frequency, high-impact traffic that have the potential to adversely impact Town highways and properties. The Town Board recognizes that well-maintained highways are important to the safety and economic well being of the Town and its residents. Such board also understands that endeavors such as but not limited to construction, timber harvesting, mining, wind energy conversions systems, telecommunication facilities and natural resource exploration and extraction are also of economic interest. For these reasons, this article is not intended to regulate such endeavors but to protect Town highways and properties from damage due to activities that typically require the use of high-frequency, high-impact traffic.

B. Exemption(s). Any exemption provided by or granted under the terms of this section shall not relieve any person from the terms of § 320 of the Highway Law of the State of New York unless otherwise expressly provided by an agreement to which the Town Board is a signatory. This article shall not be construed to prevent:

(1) The delivery or pickup of local merchandise or other property along Town highways from which high-frequency, high-impact traffic are otherwise excluded.

(2) The use of Town highways by agricultural equipment and vehicles used in conjunction with a farm operation.

(3) The use of Town highways by any school bus as that term is defined at § 142 of the Vehicle and Traffic Law of the State of New York, provided said vehicle is owned or operated by a school district or under contract with the same.

(4) The use of Town highways by high-frequency, high-impact traffic that is deemed necessary by the Town Highway Superintendent to assist in the maintenance, service and repair of highways, sidewalks, sewers and other similar improvements or the installation of such. In accordance with Local Law 1 of 2013 Town Roads.

(5) The use of Town highways for any emergency operation, fire, emergency ambulance service vehicle, environmental emergency response vehicle, hazardous materials emergency vehicle or police vehicle as defined in Article 1 of the Vehicle and Traffic Law of the State of New York.

(6) The use of Town highways by any or all motor vehicles needed to assist in an emergency condition in order to protect health, life, property and/or safety.

(7) The Town Board exempting, by resolution, an applicant whose project involves high-frequency, high-impact traffic from the requirements of this article provided that the Town Board makes findings that any exemption granted:

(a) Does not appreciably impact the health, safety and welfare of the community;

(b) Does not significantly impact the quality of life of the citizens of the Town; and

(c) The Town highways to be used by high-frequency, high-impact traffic will be adequately protected and any damage to Town highways will be adequately repaired by virtue of the requirements or conditions imposed upon the applicant in connection with any federal, state, or

local permit, approval or agreement, including, without limitation mitigation measures imposed under the National Environmental Policy Act or the State Environmental Quality Review Act.

§ 2-65 **Agreement required.**
It shall be a violation of this chapter for any person or entity utilizing high-frequency, high-impact traffic on any Town highway without first obtaining a highway preservation use and repair agreement from the Town Board unless such action is exempt pursuant to this article.

§ 2-66 **Specifications.**
The use of Town highways by high-frequency, high-impact traffic and the highway preservation use and repair agreement shall conform to the same policies and standards that have been adopted by the Yates County Highway Department and any other applicable provisions of this chapter.

§ 2-67 **Supplemental specifications.**
The provisions contained within this section are intended to serve as supplemental requirements to the policies and standards of the Yates County Highway Department in order to protect the public health, safety and general welfare insofar as they are affected by high-frequency, high-impact traffic. These regulations shall supplement and not replace the applicable provisions established within the policies and standards of the Yates County Highway Department.

A. Defense and indemnification clause. The highway preservation use and repair agreement shall require, to the extent permitted by law, that the applicant defend, indemnify, and hold the Town harmless from all losses resulting from injury or death of persons or damage to property arising from the negligently performed upgrades and repairs to Town highways by the applicant.

B. Determination of final repairs. The Town Highway Superintendent, in consultation with other transportation officials and the Town Engineer, shall examine the post-use report and compare it to the pre-use report. Based on the data, field inspections, structural evaluations or any other supporting documentation, such superintendent shall determine the need for any repairs and shall prepare a report of the needed repairs that includes the treatment for each highway segment and the total estimated cost of the repair. A copy of this report shall be provided to the Town Board and the applicant. Such report shall be prepared at the applicant's expense.

C. Highways kept passable. Notwithstanding any approval granted under this chapter or any rights granted under any permit or highway preservation use and repair agreement, all Town highways shall be kept passable at all times for all vehicles, including emergency and public safety vehicles. If any truck traffic causes damage to any Town highway such that, in the opinion of the Town Highway Superintendent, such Town highway is impassable or unsafe for use by the general public, then and in any such event, and regardless of any approval, authorization, or agreement issued or to the contrary, the Town Highway Superintendent may close such Town highway, as may be permitted under applicable law, and/or require that the same be immediately repaired by the applicant or other person whose use or abuse thereof caused or contributed to the damages or events as gave rise, wholly or partially, to such Town Highway Superintendent's determination as to closure, damage, safety, or need for repair.

D. Public notice. The applicant shall advertise a public notice describing the designated haul route as well as the commencement date and completion date of the project. Such notice shall be printed in a newspaper of general circulation in the Town at least 62 days prior to the commencement date of the project.

E. Public safety evaluation. The Town Engineer, in consultation with the Town Highway Superintendent, shall undertake a public safety evaluation to identify any potential safety concerns regarding each segment of the proposed designated haul routes, including, without limitation, school bus routes and areas with significant pedestrian activity, consulting, where appropriate, with local emergency service coordinators, school districts and/or local police and fire departments, and proposing mitigation measures to address any safety concerns. For any project, use or activity utilizing high frequency, high-impact traffic within the Town, the Town Highway Superintendent shall request copies of any emergency response plan prepared in connection with the proposed use or any permits required therefor.

F. Rights retained and reserved. The Town hereby retains and reserves all rights it has now or may hereafter have or possess pursuant to the provisions of Subdivision 3 of § 23-0303 of the Environmental Conservation Law of the State of New York to request funds in the manner provided by applicable law from the oil and gas fund to reimburse the Town for costs incurred in repairing damages to any Town highway. No collection or other action or provision of this article shall be construed as prohibiting any application by the Town for reimbursement from such fund, and no right of collection, enforcement, or indemnity contained in this chapter shall be deemed waived, unenforceable, or inapplicable by virtue of the existence of such fund or any application thereto.

G. Time constraint. High-frequency, high-impact traffic shall only utilize designated haul routes between the hours of 7:00 a.m. to 4:00 p.m. on weekdays. Such constraint is authorized pursuant to Subdivision 28 of § 1660 of the Vehicle and Traffic Law of the State of New York.

Part 6
Administration and Enforcement

Article XIII
Town Highway Superintendent

§ 2-68 **Town Highway Superintendent.**

The Town Highway Superintendent is hereby authorized and directed to administer and enforce the provisions of this chapter. The Town Highway Superintendent shall have the authority to adopt policies and procedures in order to clarify the application of its provisions. Such policies and procedures shall be in compliance with the intent and purpose of this chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this chapter. Additionally, the employees designated to the Highway Department shall have powers as delegated by the Town Highway Superintendent to administer and enforce this chapter. Lastly, the Town Highway Superintendent shall have all general powers and duties granted to him or her by Article 7 of the Highway Law of the State of New York.

§ 2-69 **Inspections.**

The Town Highway Superintendent shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Town Highway Superintendent is authorized to engage expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the Town Board.

§ 2-70 **Notices and orders.**
The Town Highway Superintendent shall issue all necessary notices or orders to ensure compliance with this chapter.

§ 2-71 **Records.**
The Town Highway Superintendent shall keep official records of all business and activities specified in the provisions of this chapter. Such records shall be retained in the official records for the period required for retention of public records.

§ 2-72 **Consultants.**
The Town Highway Superintendent is hereby authorized to consult with and/or request the assistance of the Town Attorney, Town Engineer, Code Enforcement Officer, other Town staff, transportation officials (e.g., County Highway Superintendent, NYSDOT, etc.) and/or employ any engineer, consultant and/or expert that such superintendent deems necessary to assist in the administration and enforcement of this chapter.

Article XIV
Notification of Defects

§ 2-73 **Written notice required.**
No civil action shall be maintained against the Town and/or the Town Highway Superintendent, or against any improvement district in the Town, for damages or injuries to persons or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge or culvert was actually given to the Town Clerk or the Town Highway Superintendent, and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge or culvert in the Town unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or the Town Highway Superintendent and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 2-75 **Parking lots/spaces.**
No civil action will be maintained against the Town and/or the Town Highway Superintendent for damages or injuries to persons or property sustained by reason of any defect in the parking spaces and/or parking lots of the Town or in consequence of the existence of snow or ice upon any of its parking spaces and/or parking lots, unless such spaces and/or lots have been constructed or are maintained by the Town or the Town Highway Superintendent pursuant to statute, nor shall any action be maintained for damages or injuries to persons or property

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

§ 2-76 **Responsibility of Town Highway Superintendent.**
The Town Highway Superintendent shall transmit, in writing, to the Town Clerk within 10 business days after receipt thereof, all written notices received by him or her pursuant to this chapter, and he or she shall take any and all corrective action with respect thereto as soon as possible.

§ 2-77 **Records of notices.**
The Town Clerk shall keep an index record, in a separate book, of all written notices which he or she shall receive of the highways and private roads existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of an accumulation of ice and snow upon, any Town highway, bridge, culvert or a sidewalk, or any other property owned by the Town or by any improvement district, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be retained for a minimum length of time that is prescribed within the Record Retention and Disposition Schedule (MU-1) of New York State. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Highway Superintendent of the receipt of such notice.

§ 2-78 **Existing requirements.**
Nothing contained in this chapter shall be held to repeal, modify or waive any existing requirement or statute of limitations which is applicable to these causes of actions but, on the contrary, shall be held to be additional requirements to the right to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the Town, its officers and employees and/or any of its improvement districts any greater duty or obligations than that it shall keep its highways, sidewalks and public places in a reasonably safe condition for public use and travel.

§ 2-79 **Condemnation.**
This section shall not apply to actions upon claims for damage or compensation for property taken by condemnation for any public purpose.

§ 2-80 **Additional duties of Town Clerk.**
The Town Clerk shall transmit a copy of every notice received by him or her pursuant to this article to the Town Attorney or to the Attorney for the Town and Town Highway Superintendent, if the Town Highway Superintendent was not the source of such notice.

Article XV
Stop-Work Order

§ 2-81 **Authority.**

Whenever the Town Highway Superintendent or his designee finds any work regulated by this chapter is being performed in a manner either contrary to the provisions of this chapter or unsafe, the Town Highway Superintendent is authorized to issue a stop-work order.

§ 2-82 **Issuance.**
The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop-work order, the cited work shall immediately cease. The stop-work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

§ 2-83 **Unlawful continuance.**
Any person who shall continue any work after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

Article XVI
Violations

§ 2-84 **Violations unlawful.**
It shall be unlawful for any person, firm or corporation to design, construct or maintain a highway, private road as well as driveway or sidewalk, or portion thereof, in violation of any provisions of this chapter, or fail in any manner to comply with any notice, directive or order of the Town Highway Superintendent.

§ 2-85 **Notice.**
Whenever the Town Highway Superintendent, Code Enforcement Officer or the Zoning Board of Appeals determines that there has been a violation of this chapter or has grounds to believe that a violation has occurred, or fail in any manner to comply with any notice, directive or order of the Town Highway Superintendent, a notice of violation shall be given in the manner prescribed in this article to the person, firm or corporation thereof in violation of any provisions of this chapter.

§ 2-86 **Notice of violation.**
A notice of violation shall be in accordance with all of the following:

A. Be in writing.

B. Include a description of the real estate sufficient for identification.

C. Include a statement of the violation or violations and why the notice is being issued.

D. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring any violation into compliance with this chapter.

E. Inform the person, firm or corporation of the right to appeal.

F. Include a statement of any applicable penalties and the right to file a lien in accordance with this chapter.

§ 2-87 **Method of service.**
A notice of violation shall be deemed to be properly served if a copy thereof is:

A. Delivered to the person, firm or corporation personally; or

B. Sent by certified mail addressed to the person, firm or business entity at the last known address with the return receipt requested; or

C. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the highway or private road as well as driveway or sidewalk affected by such notice.

§ 2-88 **Compliance with notices.**
A notice of violation issued or served as provided by this article shall be complied with by the contractor, applicant, owner, operator, occupant and other person responsible for the condition or violation to which the notice of violation pertains.

§ 2-89 **Prosecution of violation.**
If the notice of violation is not complied with promptly, the Town Highway Superintendent is authorized to petition the Town Board to request the Town Attorney to institute the appropriate proceeding at law or in equity to restrain, correct or abate violation(s) of this chapter or of the order or direction made pursuant thereto.

§ 2-90 **Penalties for offenses; restoration.**

A. Civil penalty. Any person who undertakes any action regulated by this chapter, or who violates, disobeys or disregards any provision of this chapter, shall be liable to the Town for civil penalty not to exceed $300 per day for every such violation. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.

B. Criminal penalty. Any violation of any part of this chapter shall constitute a "violation" as defined in the Penal Law of the State of New York, and shall be punishable by a fine not to exceed $250, or 15 days' imprisonment, or both such fine and/or imprisonment. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense. The criminal penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.

C. Restoration. A court of competent jurisdiction may order or direct a violator to restore the affected land to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Town Highway Superintendent or his/her designate.

D. Additional penalties. In addition to the foregoing penalties and restoration, the Town Attorney, or such attorney as may be designated by the Town, may at the request of the Town Board maintain an action or proceeding in the name of the Town and/or the Town Highway Superintendent in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of this chapter, and seek any civil damages or penalties or enforce any rights which may be available at law or in equity.

E. Remedies not exclusive. The remedies set forth in this article shall not be the exclusive remedies available to the Town, and the pursuit of any particular remedy shall be in addition to, and not in substitution, or limitation of, the right and authority to pursue any other remedy or other penalty. In addition to the remedies prescribed herein, if any use of Town highways is made or threatened in violation of any applicable provision of the Highway Law of the State of New York, Vehicle and Traffic Law of the State of New York, or the Code of the Town of Barrington, the Town Board may, in the name of and on behalf of the Town, seek all remedies allowed pursuant to such laws or ordinances.

Article XVII
Fees and Incurred Costs

§ 2-91 **Fees.**
A fee schedule shall be established in accordance with the Code of the Town of Barrington.

§ 2-92 **Incurred costs.**

A. In addition to the fees required in this article, the applicant shall reimburse the Town for the cost of professional consultation fees and other expenditures attributable to an application. The Town may also require that the applicant deposit a lump sum in order to retain such consultants. In the event that such sum is insufficient to fund the necessary consulting services, the Town may require additional deposits. Such payment(s) shall:

(1) Be deposited with the Town Clerk who shall establish a line item for this purpose. Expenditures from this line item may be made at the direction of the Town Clerk without further appropriation.

(2) Pay only for the expenditures rendered in connection with the project for which an application has been submitted by the applicant.

B. The failure of the applicant to pay any fee or incurred cost shall be grounds for denial of an application, permit and/or certificate. Lastly, any outstanding fee or incurred cost shall be charged against the property, and shall constitute a lien thereon in favor of the Town, and the amount of such fees and incurred costs shall be entered on the tax rolls as being due and payable. Such fees and incurred costs may also be recovered in any other lawful manner.

C. At the completion of the Town's review of an application, any excess amount in the line item attributable to the application shall be repaid to the applicant. A final report of said line item shall be made available to the applicant by the Town Clerk if requested.

Article XVIII
Appeals, Modifications and Variances

§ 2-93 **Appeals.**

A. General. The Town Board shall hear and decide appeals of orders, decisions or determinations made by the Town Highway Superintendent relative to the application and interpretation of this chapter.

B. Limitations on authority. An application for appeal shall be based on a claim that the true intent of this chapter and the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this chapter do not fully apply or an equally good or better form of design and/or construction is proposed. The Town Board shall have no authority to waive requirements of this chapter.

§ 2-94 **Modifications.**

Wherever there are practical difficulties involved in carrying out the provisions of this chapter, the Town Highway Superintendent shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided that the Town Highway Superintendent shall first find that special individual reason makes the strict letter of this chapter impractical and the modification is in compliance with the intent and purpose of this chapter and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the Town Highway Superintendent.

§ 2-95 **Uniform Code.**

A request for a variance from the provisions of the Uniform Code and an appeal to review determination of or failure to render a determination by the Town Highway Superintendent based upon the Uniform Code shall be processed with the appropriate Board of Review as provided in Part 1205 of Title 19 of the New York Official Compilation of Codes, Rules and Regulations (NYCRR) or any successor rules, regulations or statutes. Where proposed construction, alteration, use or other work related to a fire apparatus access road would be in violation of any provision of the Uniform Code or any successor rule, regulation or statute, no permit or certificate shall be issued by the Town except pursuant to written order of the appropriate Board of Review.

§ 2-96 **Stays of enforcement.**

Appeals of a determination, notice and/or order by the Town Highway Superintendent shall stay the enforcement of the determination, notice and/or order until the appeal is heard by the authority having jurisdiction pursuant to this article.

Article XIX
Miscellaneous

§ 2-98 **Other laws.**

The provisions of this chapter shall not be deemed to nullify any provisions of local, state or federal law.

§ 2-99 **Highway or private road closures.**
No Town highway or private road shall be closed except for construction, emergency or maintenance purposes.

§ 2-100 **Revocation of permits.**
The Town Highway Superintendent is authorized to, in writing, suspend or revoke a permit issued under the provisions of this chapter wherever the permit is issued in error, or on the basis of incorrect information supplied, or where it is determined that the work or portion thereof is in violation of any law.

§ 2-101 **Certificates of occupancy.**

A. Town highways. Certificates of occupancy shall not be issued by the Town until the HMA is placed and approved by the Town Highway Superintendent at all highways proposed to be dedicated to the Town.

B. Private roads. Certificates of occupancy shall not be issued by the Town until certification is submitted by the professional engineer that the private road has been designed and constructed in accordance to the applicable standards of this chapter.

§ 2-102 **Responsibility of owners.**
An owner shall be responsible for compliance with this chapter regardless of any agreement between or among contractors, subcontractors, occupants or persons as to which party shall be responsible. It shall be the duty of every owner who performs or causes to perform work that is regulated by this chapter to comply with the law.

§ 2-103 **Responsibility for safety.**
Nothing in this chapter shall be construed to relieve persons engaged in construction or demolition operations from complying with other applicable provisions of law, nor is it intended to alter or diminish any obligation otherwise imposed by law on the owner, construction manager, general contractor, contractors, subcontractors, materialmen, registered design professionals, or other party involved in a construction or demolition project to engage in sound design and engineering, safe construction or demolition practices including but not limited to debris removal, and to act in a reasonable and responsible manner to maintain a safe construction or demolition site.

§ 2-104 **Intermunicipal agreements.**
The Town Board may, by resolution, authorize the Supervisor of this Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this chapter, provided that such agreement does not violate any provision of any other applicable law.

Article XX
Severability; Interpretation; When Effective

§ 2-105 **Severability.**

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

§ 2-106 **Interpretation.**
This chapter shall be interpreted in such a way wherever possible so that the meaning of the words and phrases and sections herein shall make them valid and legal in their effect. Whenever the requirements of this chapter are at variance with the requirements of other lawfully adopted rules, regulations or laws, the law with the most restrictive provisions or those imposing the higher standards shall govern.

§ 2-107 **When effective.**
This chapter shall be operative May 1, 2024, and effective upon being filed with the New York State Secretary of State pursuant to § 27 of the Municipal Home Rule Law of the State of New York.