

Chapter 5 Department of Building and Development → Consistent, no change required

Director of Building and Zoning → Director of Building and Development

Need to review section on appointment and section on zoning enforcement

Chapter 5

Building and Development, Department of

[HISTORY: Adopted by the Town Board of the Town of Clifton Park 4-21-1986 by L.L. No. 2-1986. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention — See Ch. **73**.

Construction and design standards — See Ch. **86**.

Fire prevention — See Ch. **114**.

Flood damage prevention — See Ch. **119**.

Zoning — See Ch. **208**.

§ 5-1 Purpose.

It is the purpose of this chapter to establish, pursuant to Article 3-A of the Town Law, a new department entitled "Department of Building and Development" in order to provide effective and efficient administration and enforcement of laws relating to zoning, fire prevention and building construction.

§ 5-2 Establishment.

The Department of Building and Development of the Town of Clifton Park is hereby established.

§ 5-3 Department Director.

[Amended 9-21-1987 by L.L. No. 9-1987; 4-18-1988 by L.L. No. 4-1988; 4-6-1998 by L.L. No. 2-1998]

- A. Department head. The head of the Department of Building and Development shall be known as the "Director of Building and [Zoning] Development," hereafter in Chapter 5 referred to as "the Director".
- B. (Reserved)
- C. [Appointment and term of office. The Director [of Building and Zoning] shall be appointed by the Town Board and shall hold office until the first day of January next succeeding the first biannual town election held after his/her appointment, and thereafter, shall hold office for the term of two years and until his/her successor shall have qualified; provided, however, that the appointees to such office shall be removable at the pleasure of the Town Board.]
- D. Salary. The salary of the Director [of Building and Zoning] shall be determined in the same manner as is provided in the annual budget for the salaries of other town officers.
- E. Duties and authority.
 - (1) The Director [of Building and Zoning] shall be the principal executive officer of the Department.

- (2) The Director shall have the duty to oversee the enforcement, administration of and compliance with the laws relating to zoning, fire safety, fire prevention and building construction, including but not limited to Local Law No. 2-1967, entitled "A Local Law Relating to Zoning for the Town of Clifton Park," as amended or as may be amended; Local Law No. 24-1975, entitled "A Local Law adopting a Fire Prevention Code, prescribing regulations governing conditions hazardous to life and property from fire and explosion and establishing a Bureau of Fire Prevention and providing officers therefor and defining their powers and duties," as amended or as may be amended; and the New York State Uniform Fire Prevention and Building Code Act, as amended or as may be amended.
- (3) The Director [of Building and Zoning] shall be subject to the supervision and direction of the Town Board and the Town Supervisor.

**§ 5-4 Bureaus within Department.
[Amended 4-6-1998 by L.L. No. 2-1998]**

The Department of Building and Development shall consist of the Bureau of Fire Prevention, the Building Department and the Bureau of Zoning Enforcement.

- A. Bureau of Fire Prevention. The Bureau of Fire Prevention, heretofore established pursuant to Local Law No. 24-1975, shall continue, except that the Chief of the Bureau of Fire Prevention shall be subject to the supervision and direction of the Director of Building and Zoning and to the Town Supervisor; and to the extent that Section 2(c) of Local Law No. 24-1975 is inconsistent herewith, it is repealed.
- B. Building Department.
 - (1) The Building Department is hereby abolished and shall be reconstituted as part of the Department of Building and Development and shall consist of a Senior Building Inspector and such deputy building inspectors and clerks as the Town Board may appoint.
 - (2) The Senior Building Inspector and deputies and clerks shall be subject to the supervision and direction of the Director [of Building and Zoning] of the Department.
- C. Bureau of Zoning Enforcement.
 - (1) The Bureau of Zoning Enforcement is hereby created and shall consist of the Zoning Enforcement Officer and such deputy zoning enforcement officers and clerks as the Town Board may appoint.
 - (2) The Zoning Enforcement Officer and deputies and clerks shall be subject to the supervision and direction of the Director of Building and Zoning.

**§ 5-5 Appointment and removal of bureau officers.
[Amended 4-18-1988 by L.L. No. 4-1988; 4-6-1998 by L.L. No. 2-1998]**

The Director [of Building and Zoning], the Chief of the Bureau of Fire Prevention, the Senior Building Inspector, the Zoning Enforcement Officer and deputies thereto and clerks thereto shall be appointed by the Town Board on the basis of a civil service competitive examination and shall not be removed except in accordance with the Civil Service Law of the State of New York.

**§ 5-6 Emergency Services Advisory Board.
[Added 3-6-1989 by L.L. No. 7-1989; amended 12-16-1996 by L.L. No. 13-1996; 4-6-1998 by L.L. No. 2-1998; 8-6-2018 by L.L. No. 4-2018]**

The Emergency Services Advisory Board (ESAB) of the Town of Clifton Park is hereby established. The Board shall consist of one member from each of the six fire districts and one member from each of the ambulance corps in the Town of Clifton Park and a Chairman appointed at large. The members shall be appointed by the Town Board as follows upon December 31: two members shall be appointed for one

year, two members shall be appointed for two years, and two members shall be appointed for three years. All reappointments or subsequent appointments shall be for three-year terms. The Town Board shall seek recommendations for appointments to the Emergency Services Advisory Board from the respective fire district officials and ambulance services. The Emergency Services Advisory Board shall consider matters concerning fire prevention and protection on a town-wide basis. It shall make recommendations concerning these matters to the Director [of Building and Zoning] and the Town Board. The Advisory Board shall meet at least every three months at the direction of the Chairman or more often, at the call of the Chair, if necessary. The Town Board may seek the advice of the Emergency Services Advisory Board when considering candidates for the position of Chief of the Bureau of Fire Prevention.

§ 5-7 Additional rules and regulations.
[Added 3-6-1989 by L.L No. 7-1989]

The Town Board may adopt such further rules and regulations as it deems necessary to carry out the provisions of this chapter. The Town Board shall consider recommendations of the Director [of of Building and Zoning] regarding such rules and regulations, and the adoption, amendment or repeal thereof, as relate to efficient administration and enforcement of the provisions of the New York State Uniform Fire Prevention and Building Code. Such proposed rules and regulations shall not conflict with the Uniform Code, any local law or any other provision of law.

Department of Parks, Recreation and Community Affairs → Department of Parks & Recreation

Department of Planning → Department of Planning & Zoning

Chapter 35

Community Arts and Culture Commission

[HISTORY: Adopted by the Town Board of the Town of Clifton Park 10-15-2007 by L.L. No. 11-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Department of Building and Development — See Ch. 5.

Environmental Conservation Commission — See Ch. 13.

Department of [Parks, Recreation and Community Affairs] Parks & Recreation — See Ch. 34.

Department of Planning & Zoning — See Ch. 36.

§ 35-5 Powers and duties.

The powers and duties of the Commission shall be to:

- D. **Work with the Town Director of Parks and Recreation** to develop, schedule and locate Commission-supported public activities and events.

Director of Building & Zoning → Director of Building and Development

§ 11-6 Powers and duties.

The Emergency Services Advisory Board shall consider matters concerning fire prevention and protection on a Town-wide basis. It shall make recommendations concerning these matters to the Director of Building and [Zoning] Development and the Town Board. The Advisory Board shall meet at least every three months at the direction of the Chairman or more often, at the call of the Chair, if necessary. The Town Board may seek the advice of the Emergency Services Advisory Board when considering candidates for the position of Chief of the Bureau of Fire Prevention.

§ 169-4 Defined terms; word usage.

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

DESIGNATED REPRESENTATIVE

The Director of Building and [Zoning] Development, or his designee, shall be responsible for the enforcement of the rules and regulations herein promulgated, and to carry out the day-to-day duties as required under this Sewer Use Law as the representative of the Town Board.

§ 171-3 Definitions.

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

DIRECTOR

The Director of Building and [Zoning] Development.

§ 208-7 Definitions and word usage.

A. Certain words and terms used in this chapter are defined, for the purposes thereof, as follows:

BUILDING INSPECTOR

The Director of Building and [Zoning] Development of the Town of Clifton Park and/or his designee.

ZONING ENFORCEMENT OFFICER

The Director of Building and [Zoning] Development of the Town of Clifton Park or his designee.

§ 208-78 Historic Preservation.

[Amended 10-10-2006 by L.L. No. 10-2006; 12-1-2008 by L.L. No. 9-2008]

E. Landmarks.

(3) Upon designation by the Town Board, the Town Clerk shall record and forward notice of each property designated as a landmark to the Town of Clifton Park Assessor and the Director of Building and [Zoning] Development.

(4) (a) Certificate of appropriateness. Any alterations, modifications or additions to a landmark

building or structure shall be aesthetically and architecturally compatible with the existing building. No person shall carry out any exterior alteration, restoration, reconstruction, demolition or new construction or move a landmark, nor shall any person make any material changes in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements which affect the appearance of the landmark, without first obtaining a review by the Historic Preservation Commission and a certificate of appropriateness, unless, in the opinion of the Director of Building and [Zoning] Development, such activity is necessary to prevent the property or structure from posing a danger to the public at large. In making a recommendation to the Planning Board on an application for a certificate of appropriateness, the Historic Preservation Commission shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public street or alley.

- (b) [4] All decisions of the Planning Board shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Town Clerk. The Board shall state in writing the reason for its action. A copy of the Board's decision shall also be forwarded to the Director of Building and [Zoning] Development and to the Chairperson of the Zoning Board of Appeals.
- F. (1) Prior to issuing any demolition permit on a building or structure more than 49 years old, the Town Department of Building and Development, hereafter referred to as "the Building Department," shall notify the Historic Preservation Commission, by providing 30 days' written notice, identifying the building or structure for which such permit is sought by address and name of owner or owners, unless, in the opinion of the Building Department, the structure poses an imminent danger to health and safety.

**§ 208-107 Building permits; powers and duties of Building Inspector.
[Amended 12-19-2005 by L.L. No. 12-2005; 10-10-2006 by L.L. No. 8-2006; 12-18-2006 by L.L. No. 20-2006]**

- J. Upon project completion, the applicant shall submit a final set of as-built plans and specifications on a CD utilizing software acceptable and usable by the Town of Clifton Park. This shall apply only to those plans requiring the stamp and signature of a professional engineer or registered architect. This requirement may be waived at the sole discretion of the Director of Building and [Zoning] Development.

Floodplain Administrator

§ 119-4 **Definitions.**

LOCAL ADMINISTRATOR

The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Code Enforcement Officer, Building Inspector, Stormwater Management Officer, or employee of an engineering department.

§ 119-10 **Designation of local administrator.**

[The Director of Building and Zoning is hereby appointed] The Town Board shall appoint a local administrator from the list of eligible titles as defined in § 119-4, to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

Chapter 34

[Parks, Recreation and Community Affairs]

Parks & Recreation, Department of

[HISTORY: Adopted by the Town Board of the Town of Clifton Park 12-28-1989 by L.L. No. 29-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Parks and preserves — See Ch. 152.

§ 34-1 Purpose.

[Amended 6-28-1993 by L.L. No. 10-1993]

It is the purpose of this chapter to establish, pursuant to Article 3-A of the Town Law, a Department entitled "[Department of Parks, Recreation and Community Affairs] Department of Parks & Recreation" in order to provide effective and efficient administration.

§ 34-2 Establishment.

[Amended 6-28-1993 by L.L. No. 10-1993]

The Department of Parks[, Recreation and Community Affairs] & Recreation, in this chapter to be referred to hereafter as "The Department", is hereby established.

§ 34-3 Department head.

[Amended 6-28-1993 by L.L. No. 10-1993]

- A. The head of the Department [of Parks, Recreation and Community Affairs] shall be known as the ["Department Director of the Department of Parks, Recreation and Community Affairs."] "Director of Parks & Recreation", in this chapter to be referred to hereafter as "The Director".
- B. The position of the [Department] Director [of the Department of Parks, Recreation and Community Affairs] shall be in the classified service.
- C. The salary of the Director [of the Department of Parks, Recreation and Community Affairs] shall be determined in the same manner as is provided in the annual budget for the salaries of other town officers.

§ 34-4 Organization.

[Amended 6-28-1993 by L.L. No. 10-1993; 4-6-1998 by L.L. No. 2-1998]

The Director shall have powers as shall be necessary for the proper administration of the Department, consistent with applicable provisions of law. Until such time as the same may be either amended or modified, the Department shall be divided into the following:

- A. Recreation Services.
- B. Community Affairs.

§ 34-5 Powers and duties.

[Amended 6-28-1993 by L.L. No. 10-1993; 4-6-1998 by L.L. No. 2-1998]

- A. The functions, powers and duties therein shall be under the administration, direction and control of the Director, and shall be supervised by the Director or by a Deputy Director, who shall be designated as such, upon appointment of the Town Board.
- B. The Director may, with the approval of the Town Board after a public hearing, establish, consolidate or abolish any division or subdivision now existing or hereafter created in any such Division. The provisions of any local law to the contrary notwithstanding, the functions, powers and duties of such Division shall be as follows:
 - (1) (Reserved)
 - (2) Recreation Services. This Division shall be charged with the planning and implementation of recreational and cultural programs as a basic town service, providing worthwhile activities for all ages. This shall include but not be limited to leisure programs of all types provided to senior citizens and handicapped persons. This Division shall include the Historian's Office and town government, which shall be incorporated into the leisure programs of this Division.
 - (3) Community Affairs. This Division shall be charged with the responsibility of providing special programs and services, exclusive of the traditional recreation programs, for town residents. This shall include but not be limited to service such as the Shenendehowa senior citizens and human services for the handicapped population. This shall also include service to the youth of the town under the guidance of the Town Parks and Recreation Commission.

§ 34-6 Duties and authority of Director.

- A. The [Department] Director [of the Department of Parks, Recreation and Community Affairs] shall be the principal executive officer of the Department. **[Amended 6-28-1993 by L.L. No. 10-1993]**
- B. The Director shall be empowered to perform such other duties and functions that are prescribed to be performed by him/her pursuant to any local law of the Town Board or lawful directive of the Supervisor. However, the Director may delegate any of his powers to or direct any of his duties to be performed by a Deputy Director. **[Amended 4-6-1998 by L.L. No. 2-1998]**
- C. The Director shall recommend to the Town Board a schedule of fees for all facilities and programs operated by the Department. Said fees shall be established upon local law of the Town Board. The fees shall be collected either by the Department [of Parks, Recreation and Community Affairs] or by the Town Clerk, as determined by the Director and Town Clerk. **[Amended 6-28-1993 by L.L. No. 10-1993]**
- D. The Director shall recommend to the Town Board plans and specifications for improvement of all town parks and recreational facilities, as needed. The Director shall be authorized to hire architects, engineers and other consultants to assist in the preparation of such plans, subject to prior Town Board approval.
- E. The Director shall have the authority to reassign personnel to particular projects or in general as he deems necessary for the benefit of the Department or to ensure that all functions of said Department are adequately fulfilled.

§ 34-7 Personnel.

In addition to all other personnel listed hereinabove and those employees hired pursuant to the Civil Service Law, the Director shall have the right to hire a secretary, in a classified position, who shall work in a confidential capacity with the Director, subject to prior Town Board approval, and shall employ other town employees as may be provided by the Town Board and which shall be listed on the Department organization chart attached herewith as Exhibit A.

§ 34-8 Absence of Director.

In the absence of the Director, the Deputy Director shall be empowered to act in his behalf.

§ 34-9 Powers of Supervisor.

Nothing herein contained shall be construed to delegate or transfer any power of the Town Supervisor as outlined in the Town Law of the State of New York or any statutory or other powers which may be lawfully executed by said Supervisor.

Director of Parks and Recreation - Titles consistent, no change required

§ 153-11 Authority to establish membership fees.

The Director of Parks and Recreation shall establish annual membership fees for residents and for nonresidents and enter into agreements with area municipalities for reasonable membership fees for area residents as may be desirable for the maintenance and operation of the park, subject to approval by the Town Board.

§ 153-12 Rules and regulations; infractions; appeals.

- A. Rules and regulations for the Clifton Park Action Park shall be established by the Director of Parks and Recreation, subject to approval by the Town Board, and shall be posted at the park, are attached hereto and are available on the Town's website.
- B. Infractions or violations of Action Park rules and regulations established by the Director of Parks and Recreation as approved by the Board may result in a suspension or revocation of membership privileges, in addition to any other penalty as may be set forth in this article. Such suspension, revocation or limitation shall be in the discretion of the Assistant Director of Parks and Recreation ("Assistant Director") or his/her designee, subject to review upon appeal by the Director of Parks and Recreation. Appeal from such determination shall be in writing to the Director of the Department of Parks and Recreation within 30 days of the effective date of such determination and shall be heard at the Town Board meeting next following receipt of the appeal. The Director shall affirm, reverse, or modify the determination of the Assistant Director within one week of such hearing. Nothing herein shall prevent the Town Board or the Director from granting relief acceptable to the appellant prior to, or in the absence of, such written appeal or hearing.

153-18 Suspension or revocation of membership privileges; appeals.

- A. Infractions or violations of the three town pools and clubhouses' rules and regulations established by the **Director of Parks and Recreation** as approved by the Board may result in a suspension or revocation of membership privileges.
- B. Such suspension, revocation or limitation shall be in the discretion of the **Assistant Director of Parks and Recreation ("Assistant Director")** or his/her designee, subject to review, upon appeal, by the **Director of Parks and Recreation**. Appeal from such determination shall be in writing to the **Director of the Department of Parks and Recreation** within 30 days of the effective date of such determination and shall be heard at the Town Board meeting next following receipt of the appeal. The Director shall affirm, reverse, or modify the determination of the Assistant Director within one week of such hearing. Nothing herein shall prevent the Town Board or the Director from granting relief acceptable to the appellant prior to, or in the absence of, such written appeal.

Planning Department → Planning and Zoning Department

§ 103-13 Subdivision fees.

The following fees shall be collected by the Clifton Park Planning and Zoning Department from applicants requesting subdivision review and/or approval pursuant to Clifton Park Town Code Chapter A215:

§ 103-14 Parkland fees.

[Amended 9-15-1988 by L.L. No. 15-1988; 3-12-2012 by L.L. No. 5-2012; 5-12-2014 by L.L. No. 3-2014]

In the event that the Planning Board requests payment in lieu of parkland pursuant to § A215-7 of the Town Code, the following fees shall be collected by the Town of Clifton Park Planning and Zoning Department from the applicant prior to issuance of approved subdivision plans:

125- Conservation Easement

§ 125-6 Procedure for granting term easement.

[Amended 5-3-2004 by L.L. No. 1-2004; 12-1-2008 by L.L. No. 8-2008]

D. Review procedures.

- (1) Town Board referrals. The Town Board shall refer such applications to the Open Space Coordinator and the Planning and Zoning Department, and also to the applicable advisory committees such as the Historic Preservation Commission and/or the Open Space, Trails and Riverfront Committee, for review and comments within 45 days, if deemed necessary and/or appropriate. **[Amended 5-11-2020 by L.L. No. 5-2020]**

§ 125-17 Interests run with land.

[Added 12-1-2008 by L.L. No. 8-2008]

Interests secured through a deed of permanent conservation easement shall run with the land. The Town of Clifton Park Open Space Coordinator and the Planning and Zoning Department shall monitor the interests of the Town secured through permanent conservation easements on behalf of and report to the Town Board.

§ 171-3 Definitions.

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

PLANNING AND ZONING DEPARTMENT

The Town of Clifton Park Planning and Zoning Department.

§ 179-1 Definitions of terms.

For the purpose of these regulations, the following words and terms shall have the meanings indicated:

DEPARTMENT OF PLANNING AND ZONING

Herein referred to as the "Department" whose responsibilities and authority are vested in the Director as established in Local Law No. 9-1986.

§ 179-15.1 Notification of proposed subdivision approval.
[Added 4-24-1990 by L.L. No. 4-1990]

A. § 179-15.1 Notification of proposed subdivision approval.
[Added 4-24-1990 by L.L. No. 4-1990]

A.

(3) Proof of notification. **[Amended 4-6-1998 by L.L. No. 2-1998]**

- (a) The applicant shall submit satisfactory proof that the property owners within 500 feet of the perimeter of the lands proposed for subdivision have been notified, in writing, of the nature (use number of lots, approximate commercial square footage) of the proposed subdivision, and such notification shall include a brief narrative of the proposal and the following written statement:

"An application for subdivision of lands within 500 feet of your property is being proposed. The subdivision application will be filed with the Planning and Zoning Department of the Town of Clifton Park and may be reviewed by you during normal business hours at Town Hall. Please call the Planning and Zoning Department at 371-6651 if you have any questions about the procedures to review this application and the process for consideration of the proposal."

§ 179-23 Highways.

E. The following items are required for dedication of highways to the Town of Clifton Park:
[Amended 4-6-1998 by L.L. No. 2-1998]

- (1) Three sets of reproducible Mylars of the as-built drawings of the streets and utilities shall be submitted to the Planning and Zoning Department for distribution to Clifton Park Water Authority and Saratoga County Sewer District and one set of prints for the Highway Superintendent. These as-built drawings will serve as certification that construction has been generally performed in accordance with the final plans and shall be stamped by a licensed engineer.

§ 208-26 Site standards.

7. Pedestrian amenities.

- A. All new development or redevelopment projects shall provide common pedestrian amenities, such as benches and bicycle racks, commensurate in quantity to the size of the project, as directed by the Planning and Zoning Department.

§ 208-43.14 Community benefits or amenities.

A.(3) (a) For total projects greater than five lots:

- [1] One-third (33%) of the total payment is due at the Town Planning and Zoning Department within 30 days of Town Board approval by Town Board resolution. At the time of the first payment, at the first building permit, either a bond, cash, or letter of credit is required to cover the balance of the remaining amount. The bond, cash, or letter of credit instrument may be reduced as payments are received.
- [2] An additional 1/3 (33%) of the total payment is due at the Town Planning and Zoning Department within 30 days of the date of the building permit granted upon completing 20% of the project's units.

- [3] The final 1/3 (33%) of the total payment is due at the Town Planning and Zoning Department within 30 days of the Town engineering inspection letter verifying that the project is 80% complete or within 60 months of the original approval by the Town Board; whichever is first will trigger payment.
- (c) For projects that received Town Board approval of their open space incentive zoning proposals prior to March 15, 2010, the following payment plan shall apply:
- [3] The final 1/3 (33%) of the payment is due at the Town Planning and Zoning Department within 30 days of the Town engineering inspection letter verifying that the project is 80% complete.

§ 208-69.1 Location and boundaries.

- B. Each applicant for a building permit, soil disturbance permit, subdivision or site plan within or containing areas zoned L-C due to freshwater wetlands shall contact the New York State Department of Environmental Conservation to verify the exact location of the wetlands boundaries and regulated adjacent areas. A copy of the delineation must be filed with the Planning and Zoning Department, who will distribute it to other affected departments within the Town of Clifton Park.

§ 208-75 Preliminary and final development plan approval.

- B. Prior to final site plan and/or subdivision approval, the Planning and Zoning Department shall assure that said finalized plans are consistent with the original concept plans and the conditions set by the Town Board in the rezoning of the parcel to planned development district.

§ 208-95 Communications towers.

[Amended 12-9-1996 by L.L. No. 11-1996; 4-6-1998 by L.L. No. 2-1998; 2-4-2002 by L.L. No. 2002; 10-16-2006 by L.L. No. 14-2006; 8-6-2007 by L.L. No. 8-2007; 9-15-2008 by L.L. No. 5-2008]

E. Procedure.

(1)

- (e) Application. All applications for a special use permit for the construction or installation of new communications towers, antennas and accessory communications structures shall be filed with the Town Planning and Zoning Department and shall be accompanied by a report containing the information hereinafter set forth, which said report shall be signed by a licensed professional engineer or qualified radio frequency consultant. Certifications required by Subsection **E(1)(e)[17]** and **[18]** of this article shall be made by a qualified radio frequency consultant. The certification required by Subsection **E(1)(e)[20]** shall be made by a licensed professional engineer. Determinations as to the qualifications of nonlicensed professionals shall be made in the reasonable discretion of the reviewing board.
- (f) Information provided by applicants pursuant to Subsection **E(1)(e)[25]** above shall be kept separately and excluded from disclosure under the Freedom of Information Act (Public Officers Law § 87 et seq.), pursuant to Public Officers Law § 87, Subdivision 2(d), upon a showing by the applicant that disclosure of the material would result in substantial competitive injury. Determinations on the showing required to demonstrate competitive injury under this subsection shall be made by the Planning and Zoning Director in consultation with the Town Attorney.

(2)

(a) Applications for new communications towers, facilities or equipment, including co-locations, existing tall structures, and those utilizing alternative tower structures requiring a change in use within an existing PUD or PDD shall be made to the Director of Planning and Zoning, who shall refer the application for zoning change to the Town Board.

(3)

(d) New towers: future shared use. The applicant for a new communications tower should examine the feasibility of designing the proposed new communications tower to accommodate future demand for up to four additional commercial applications, for example, co-locations. The tower shall be structurally designed to accommodate, or to be extended to accommodate, at least four antenna arrays equal to those of the primary applicant, unless the applicant demonstrates that it is infeasible to do so, with substantial evidence submitted within a written record. The applicant shall submit to the board a letter of intent committing the owner of the proposed new tower and his/her successors in interest to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Planning and Zoning Director. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. The letter shall commit the new tower owner and his/her successors in interest to:

[3]

(h) Applicants for a permit for a new communications tower or alternative tower structure shall furnish a visual impact assessment that shall include:

[2] Pictorial representations of before and after views from key viewpoints both inside and outside of the Town, including but not limited to county roadways, highways and other major roads; parks and preserves, as well as other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to the public at large. Any key views requested by the Town's Planning and Zoning Director or consultant shall be provided at the initial meeting of the Planning Board or at any preapplication meeting where requested. Pictorial representations shall exclude foreground trees, telephone poles, wires, and other obstructions to the best possible degree in order to provide accurate presentations of actual visual impact. The Planning Board, acting in consultation with its consultants or experts, hired at the expense of the applicant, will provide guidance concerning the appropriate key sites at a preapplication meeting.

[7]

(i)

[4] Unless waived by the Planning and Zoning Director, there shall be a preapplication meeting attended by the applicant as well as a member of the Planning Board or other reviewing board with jurisdiction. The purpose of the preapplication meeting will be to address issues that will help to expedite the review and permitting process. A preapplication meeting may also include a site visit, if required. The applicant shall request a preapplication meeting by correspondence directed to the reviewing board. The applicant may file the application upon expiration of 45 days following delivery of the correspondence requesting same, if such preapplication meeting is not scheduled by the appropriate reviewing board within 45 days. In cases of an application requiring a change in zoning for an existing or proposed PDD or PUD, the preapplication meeting may include a member of the Town Board.

F. Additional requirements applicable to all applications for special use permits.

(10) An applicant shall submit no fewer than 14 copies of the entire completed application to the Planning Board, Planning and Zoning Department for distribution to the Planning Board and a copy of notice of the application to the Town Clerk. Where an application also requires action by the Zoning Board of Appeals, applicants shall submit an additional 14 copies of such applications. Where an action also requires action by the Town Board, such as where a zoning change to a PUD or Planned Development District would be required, pursuant to Subsection E(2), the applicant shall

submit an additional seven copies of the application to that Board.

- (11) The holder of a special use permit for wireless communications facilities shall notify the Town of any intended modification of a communications tower, antenna or accessory communications structure and shall apply to the Planning and Zoning Department to modify, relocate, or rebuild the same. Whenever modifications or replacement of antennas involve changes to antennas patterns, propagation, or additional transmission capability, the applicant shall submit current and updated radio frequency (RF) propagation plots that demonstrate existing and proposed RF coverage. However, antenna changes that do not alter any visually discernible components of the facility, involve changes to antennas patterns or propagation, or routine maintenance work not impacting antenna patterns do not require further review pursuant to this section.
- (16) Compliance.
 - (a) Following construction of the facilities for which the special use permit was obtained, the Planning and Zoning Department and Town Engineer shall cause an inspection to occur upon the land or structure where the special use is located in order to ascertain that the applicant has complied with all of the conditions of the approved special use permit and site plan listed and ordinances applicable to said permit and property affected.
 - (b) The Building Department and the Planning and Zoning Department shall keep records of all communications tower and facility special use permits issued pursuant to this section and inspect existing tower sites and wireless communications facilities as necessary to ensure continuing compliance with the criteria and requirements under which the relevant special use permits were issued. The Town designates the Planning and Zoning Department as the repository of official set of records under this section.
 - (c)
- (20) Any applicant desiring relief, waiver or exemption from any aspect or requirement of this section may make such request at the preapplication meeting or, subsequently, to the Planning and Zoning Director. Any request for waiver or exemption from any aspect of this section shall be contained in the original application for either a special use permit or, in the case of an existing or previously granted special use permit, a request for modification of its communications tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the Town in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant affect on the health, safety and welfare of the Town, its residents and other service or the ability of the reviewing board to conduct its review pursuant to this section.
- G. Fees.
 - (1) At the time that a person or entity submits an application fee for a special use permit for a new communications tower, such person or entity shall pay a single, nonrefundable application fee of \$5,000. If the application is for a special use permit for co-locating on an existing communications tower or tall structure, where no increase in height of the tower or structure is required, the application fee shall be \$2,000, which is nonrefundable. Such fee shall be paid to the Planning and Zoning Department, which shall maintain records of payment in consultation with the Town Comptroller.
 - (2) In addition to the application fee described in Subsection **G(1)** above, applicants shall deposit a separate review fee in the amount of \$7,500, which shall be utilized for all reasonable costs of consultants and expert reviews of any application, including, where applicable, preapproval evaluation as well as during construction or modification of sites, once permitted. Such experts and consultants as shall be reasonably required by the Town shall be made available to the appropriate reviewing board. The Town shall maintain a separate escrow account for such review fee funds and

shall return the unused portion of any such funds to the applicant within 60 days of any final action on any application or formal withdrawal of same. If at any time during the review process this escrow has a balance less than \$2,000, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that the balance shall be at least \$5,000. Such additional escrow funds shall be deposited with the Town before any further action is taken on the application. The escrow amount for review fees shall apply to both new communications tower applications and those for colocations and shall be paid to the Planning and Zoning Department, which shall maintain a separate accounting of the fees and disbursements from said escrow, for each application, in consultation with the Town Comptroller.

§ 208-113 **Purpose and applicability.**

- A. Purpose. The purpose of this article is to establish clear procedures for review of site plans, establish standardized and clear requirements for site plan applications, assure functional and attractive development and minimize adverse impacts on the natural and man-made environment. The Town of Clifton Park considers the site plan to be a form of contract between the owner and the public (represented by the Town) in which the Town agrees to permit certain development in return for commitments on the part of the owner to fulfill and maintain all of the requirements of the approved site plan.
- B. Applicability.
- (1) In all cases where this chapter requires a special use permit and/or site plan approval by the Planning Board, no building permit shall be issued by the Building Inspector except upon approval of and in conformity with a site plan approved by the Planning Board. Receipt of an approved site plan from the Planning and Zoning Department or written correspondence from the Director of Planning and Zoning authorizing the release of the building permit for a project is required prior to the issuance of a permit. An approved site plan shall be required prior to any field inspections by the Building Inspector. Generally, a site plan approval is required for all uses of land, new construction or expansion of existing uses for other than one- and two-family dwelling units and uses accessory thereto. This includes, but is not limited to, all Planned Development Districts (except those containing only one- and two-family dwelling units which shall require subdivision approval), all applications for a soil disturbing activity (SDA), all changes of use in the Light Industrial District as required by § 208-66E of this chapter and all other telecommunication towers as required by § 208-95B of this chapter. [Amended 12-9-1996 by L.L. No. 11-1996; 10-16-2006 by L.L. No. 15-2006; 11-9-2015 by L.L. No. 12-2015]
 - (2)
 - (b) If the new use is not of the same type and intensity (i.e., office to retail, sit-down restaurant to fast-food restaurant, etc.), the new owner shall, if required by the Building Inspector, appear before the Planning and Zoning Department to arrange to appear before the Planning Board to determine if a revised site plan approval will be required prior to the issuance of a building permit and/or certificate of occupancy or tenancy.
 - (9) Lot line adjustment procedures. [Added 3-2-2009 by L.L. No. 1-2009]
 - (a) Applications for lot line adjustments shall be made in writing to the Planning and Zoning Director and shall consist of the following documentation:
 - [4]
 - (b) The Planning and Zoning Director will forward the application to the Town Zoning Officer, who

shall review the application to ensure that the lot line adjustment will not result in any code violations.

- (c) The Planning and Zoning Director, in consultation with the Town Zoning Officer, shall review and approve or deny an application for a lot line adjustment within 45 days. If the application is approved, the **Director of the Department of Building and Development** shall issue a certificate of lot line adjustment, which the applicant shall file with the Saratoga County Clerk concurrently with the deed effecting the lot line adjustment.
- (d) If the approval of the lot line adjustment would result in an increase in the development potential of any parcel, then the Planning and Zoning Director shall refer the application to the Planning Board for site plan review.
- (1) The fee for an application for a lot line adjustment shall be \$100. **[Added 3-2-2009 by L.L. No. 1-2009]**
- (2) Should more than six months have elapsed from the date of preliminary approval before the applicant seeks final site plan approval, the Planning Board may, in its sole discretion, require the applicant to resubmit his preliminary site plan and pay an additional preliminary fee pursuant to the provisions of this section.
- (3) The Planning Board, in its discretion, may require a fee upon final submission of the site plan by the applicant in the same amount as required for preliminary submission. This final fee requirement may be waived by the Planning Board in the interest of justice if requiring such final fee will, in the opinion of the Board, create an undue hardship on the applicant.

§ 208-114 **Conceptual plan.**

C.

- (2) Prior to the commencement of any soil disturbing activity (SDA), a sketch plan shall be presented to the Planning and Zoning Department. At a minimum, this plan shall include:
- (3) The Planning Board and the Stormwater Management Officer shall review the sketch plan and narrative to determine the suitability of the stormwater management and erosion control plan. A soil disturbance security, as approved by the Director of Planning and Zoning, shall be established prior to the issuance of a building permit. This security shall cover the full cost of constructing and maintaining all stormwater management and erosion control measures and shall be kept in effect until the Town determines that soil stabilization has occurred. Written acceptance of the plan by the Planning Board shall constitute permission for the owner to complete his building permit application. **[Amended 12-17-2007 by L.L. No. 13-2007]**

§ 208-115 **Application for preliminary site plan approval.**

An application for preliminary site plan approval shall be made in writing to the Planning and Zoning Department and shall include the following:

F. Notification.

- (1) (c) Proof required.

[1] The applicant shall submit satisfactory proof that the property owners within 500 feet of the perimeter of the lands proposed for site plan approval have been notified in writing of the nature (include a brief narrative about the project and its location, including number of units, approximate commercial square footage) of the proposed site plan, and such notification shall also include the following written statement: "An application for site plan approval of lands within 500 feet of your property is being proposed. The site plan application will be filed with the Planning and Zoning Department of the Town of Clifton Park and may be reviewed by you during normal business hours at Town Hall. Please call the Planning and Zoning Department at 371-6651 if you have any questions about the procedures to review this application and the process for consideration of the

proposal."

Chapter 36

Planning and Zoning, Department of

[HISTORY: Adopted by the Board of Trustees of the Town of Clifton Park 4-21-1986 by L.L. No. 9-1986. This local law was originally adopted and designated as L.L. No. 1-1986 and was refiled as L.L. No. 9-1986 to correct a clerical error. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 208.

§ 36-1 **Purpose.**

It is the purpose of this chapter to establish, pursuant to Article 3-A of the Town Law, a new Department entitled "Department of Planning and Zoning" in order to provide effective and efficient administration and enforcement of laws relating to planning for zoning, fire prevention and building construction, highways, water, sewers, parks, landfilling, the environment, disaster preparedness and Master Planning in the Town of Clifton Park.

§ 36-2 **Establishment.**

The Department of Planning and Zoning, hereafter referred to as "the Department" of the Town of Clifton Park is hereby established.

§ 36-3 **Director of Department; Town Planner.**

- A. Department head. The head of the Department of Planning shall be known as the "Director of Planning and Zoning" or, alternatively, as the "Town Planner."
- B. (Reserved)
- C. Appointment and term of office. The Director of the Department [of Planning] shall be appointed by the Town Board and shall hold office until the first day of January next succeeding the first biannual town election held after his/her appointment, and thereafter, shall hold office for the term of two (2) years and until his/her successor shall have qualified; provided, however, that the appointees to such office shall be removable at the pleasure of the Town Board. **[Amended 9-21-1987 by L.L. No. 9-1987]**
- D. Salary. The salary of the Director of the Department [of Planning] shall be determined in the same manner as is provided in the annual budget for the salaries of other town officers.
- E. Duties and authority.
 - (1) The Director of the Department [of Planning] shall be the principal executive officer of the Department.
 - (2) The Director shall have the duty to oversee the enforcement, administration of and compliance with the laws relating to zoning and planning, including but not limited to Chapter 208, Zoning, as amended or as may be amended; the Town Law of the State of New York; the General Municipal Law of the State of New York; the New York Codes, Rules and Regulations; the Public Health Law of the State of New York; the Transportation Corporation Law of the State of New York; the New York State Uniform Fire Prevention and Building Code Act, as amended or as may be amended; and all other applicable laws of the State of New York and the Town of Clifton Park as now existing, as amended or as may be amended.
 - (3) The Director of the Department [of Planning] shall be subject to the supervision and direction of the Town Board and the Town Supervisor.

§ 36-4 **Personnel; appointment and removal.**

- A. The personnel of the Department [of Planning] other than the Department Director shall consist of such deputy planners and clerks as the Town Board may appoint or designate.
- B. The Director of the Department [of Planning] and the deputies and clerks of the Department [of Planning] shall be appointed by the Town Board on the basis of a civil service competitive examination and shall not be removed except in accordance with the Civil Service Law of the State of New York. **[Amended 4-18-1988 by L.L. No. 5-1988]**

Stormwater Management Technician change to Stormwater Management Officer

§ 13-3 Membership; terms.

- C. The Town's Stormwater Management [Technician] Officer, or his designee, shall attend regular meetings of the Commission and provide to the Commission reports regarding proposed actions to be undertaken, funded or approved by the Town. The Stormwater Management Technician will not vote on any action considered by the Commission. **[Added 4-6-1998 by L.L. No. 2-1998; amended 9-8-2014 by L.L. No. 7-2014]**

§ 13-5 Powers and duties.

[Amended 4-6-1998 by L.L. No. 2-1998]

The powers and duties of the Commission shall be to:

- D. Work with the Town [stormwater management technician] Stormwater Management Officer, or his designee, to maintain a current inventory of publicly and privately owned open spaces and special environmental features within the Town of Clifton Park. This inventory should include, but not be limited to: streams, lakes and ponds; floodways; wetlands; forests; scenic vistas; unique biological communities (such as protected, rare, threatened or endangered species); and natural landmarks. **[Amended 1-12-2015 by L.L. No. 1-2015]**