

A regular meeting was held by the Town Board of the Town of Ballston on Tuesday evening, September 24, 2013 at the Town Hall on Charlton Road.

PRESENT: Patricia Southworth ----- Supervisor  
Mary Beth Hynes ----- Councilwoman  
Timothy Szczepaniak ----- Councilman  
William Goslin ----- Councilman  
Kelly Stewart ----- Councilwoman  
Carol Shemo ----- Clerk  
Murry Brower ----- Counsel

Supervisor Southworth called the meeting to order at 7:35 p.m. and the Pledge of Allegiance was recited.

**PRESENTATION ON THE LAKE ROAD WATER EXTENSION**

Kathryn Serra, the Town Engineer with CT Male, presented the following items:

- On September 19, the bids were opened for construction of the Morningdale Water Main. The low bidder was TKC at \$121,508. The five other bids ranged from \$126,000 – \$240,000. The low bid came in close to the engineer’s estimate of \$125,000 so there should be no issue with the bonding. There is an end date in the contract of November 22, 2013 but the contractor projects to have the construction completed by the end of October.
- The Water District Consolidation Study will require a resolution from the Board to accompany the grant application.
- The residents of Lake Road, from Stonebridge to Eastline Road, at an earlier Town Board Meeting, presented the Board with a petition requesting a connection to municipal water. CT Male did a feasibility study of this proposed water district. There are 21 total properties in this proposed district, 4 parcels are vacant and there are 17 single family residences. The cost of this extension will be \$435,000 for the engineer survey, construction, legal and administrative work. There are three options for payment of the bond: Extension Borne, District Borne and Extension and Stonebridge PUDD Borne. The cost of the Extension Borne Option would be too expensive and be three times the rate the NYS Comptroller’s Office would allow to be levied on a tax bill. The District Borne Option would need to show a benefit to the whole district. The benefit of this extension would be the first step in providing a loop. To complete the loop, the pipe would need to go under the railroad tracks and the lake on Outlet Road. The cost of this construction would be just under a million dollars. Ms. Serra said that last April there was a water pipe break at the Curtis Industrial Park, the whole north part of Town lost water and the water tank drained in less than two hours. Therefore, there is a benefit to providing the first step in the loop. Also, the Board can determine the value of the loop by questioning how it fits into the Town’s future plans. The Extension and the Stonebridge PUDD Borne Option would provide a benefit for the residents of Stonebridge. It would increase the quality of their water and fire flows in hydrants and sprinkler systems in Stonebridge. Due to the ongoing construction in Stonebridge, it is difficult to work with current assessment values to determine the cost of the district. The Scotch Bush water Extension would be considered at the same time since that extension would close the gap on that side of the Town. The timing of the construction of the Lake Road Water District and the water consolidation study was discussed. Ms. Serra’s goal is to have the water consolidation report completed by the end of October.

The Board will review the information presented by Ms. Serra and be prepared to discuss the Lake Road Water Extension at the next meeting.

**RESOLUTION 13-243**

**AUDIT OF CLAIMS**

A motion was made by Councilman Goslin and seconded by Councilwoman Stewart to approve the payment of the bills on the September Abstract. The bills were approved for payment as follows:

General Fund	No. 389 - 427	\$36,465.61
Highway Fund	No. 386 - 432	23,950.02
Gravel Pit Fund	No. 30 - 33	2,946.34
Park Fund	No. 29 - 36	2,890.04
Library	No. 368 - 406	11,328.69

Water Fund District 2 (SW)	No. 102 - 111	3,856.78
Blue Barnes Rd Dist. No.2 Ext# 13 (BBR)	No. 79 - 87	107.17
Brookline Rd Rte 67 No.2 Ext#12 (BRW)	No. 82 - 90	424.20
Goode St Dist. No.2 Ext#14 (GSW)	No. 78 - 86	282.81
Paradowski Rd Water Dist. No. 5 (RW)	No. 35 - 41	66.52
Route 50 Water No.2 Ext#7 (RTW)	No. 77 - 85	1,663.56
Scotchbush Water Dist. No.6 ((WW)	No. 35 - 40	96.59
Silver Ln Water Dist. No 6 Ext#1 (WX)	No. 35 - 41	33.26
Chapel Hill Water Dist. No. 2 Ext # 18 (CH)	No. 77 - 85	494.91
Brooks Heritage Dist. No.2 Ext #21 (RL)	No. 66 - 74	103.95
Stonebridge Enclave No.2 Ext #19	No. 57 - 65	70.69
Trust & Agency	No. 29 - 32	25,671.19

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes,  
Councilman Szczepaniak, Councilman Goslin and  
Councilwoman Stewart.  
Nays 0

#### **UPDATE ON THE CONCEPT REVIEW OF THE KATZ PUDD**

Jason Dell, engineer with Lansing Engineering, presented an update on the Katz Route 50 PUDD. The main changes to the PUDD are as follows:

- 35,000 sq. ft. of commercial
- 161 apartment buildings
- 57 single family

These changes address the items the Town Board requested at the last presentation. The density has decreased in the single family homes. There are now 3 units per acre instead of the 4-5 units per acre as was presented in the original concept review. The lots are spread out so the majority of homes have 80' lot width at the building line, with a couple at 75' lot width at the building line. The commercial has been expanded from 12,000 sq. ft. to 35,000 sq. ft.. They have maximized the commercial potential of the site while retaining an acceptable amount of parking. The South portion of the property is hampered by wetlands and wooded acres so there would be no usable commercial frontage on Route 50. The remainder of the commercial area will either be flexible option either apartments or retail depending on the need determined by the builder.

Councilman Goslin is pleased with the update to the PUDD. The decrease in the single family homes and also that many of the properties back up to a forever wild area address his concerns about the density of this project. On the commercial side, he understand that the project has very little frontage on Route 50. He sees that the commercial is fully maximized and there is a good use of space. He is in favor of sending the Katz's Route 50 PUDD to the Planning Board.

Councilwoman Stewart asked if the commercial part of the property will be in two areas. She noted that there is a 23,000 sq. ft commercial building with two floors of apartments and then a 12,000 sq. ft. building with a commercial/apartments option, for a live work area. She feels that the concept has maximized the commercial development. She is in favor of the concept review.

Councilwoman Hynes asked questions concerning the commercial/apartment option. She asked Mr. Katz how he makes the determination with the different specifications for the construction whether it will be commercial or apartments? She is not fond of the optional flex space for it appears more flexible than it is. Councilwoman Hynes said she thought this was just an update to the PUDD and did not realize the Board would be voting on the project at this meeting.

Councilman Szczepaniak appreciated the changes that Mr. Katz made to the PUDD after listening to the concerns of the Town Board at the last presentation. He particularly likes the flexible option for commercial/ apartments. He is ready to send this PUDD to the Planning Board.

Supervisor Southworth is ready to refer the project to the Planning Board for its review. The Planning Board will then make a recommendation to the Town Board. The Planning Board may give assistance on this option language. The Town Board has the ability to approve or deny this application.

**RESOLUTION 13-244**

**ESTABLISH THE TOWN BOARD AS LEAD AGENCY FOR THE KATZ ROUTE 50 PLANNED UNIT DEVELOPMENT DISTRICT.**

A motion was made by Councilman Goslin and seconded by Councilman Szczepaniak to establish the Town Board as Lead Agency for the Katz Route 50 Planned Unit Development District.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.

Nays 0

**RESOLUTION 13-245**

**FORWARD THE KATZ ROUTE 50 PLANNED UNIT DEVELOPMENT DISTRICT TO THE PLANNING BOARD.**

A motion was made by Councilman Goslin and seconded by Councilman Szczepaniak to forward the Katz Route 50 Planned Unit Development District to the Planning Board.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.

Nays 0

**SUPERVISOR'S REPORT**

**Supervisor Southworth** reported the following:

- She thanked everyone who participated in Farm Aid. Those involved on the Farm Aid national level had the opportunity to visit Willow Marsh Farm and see the value in farming and the creativity the Curtis family has brought to value added farming.
- The NYSAC, the organization of counties, will be meeting in Saratoga Springs.

**COUNCIL REPORTS**

**Councilman Goslin** reported the following:

- He is looking to schedule a Public Hearing for the micro-distillery.
- He would like to set aside funds in the budget on a multi-year basis for Comprehensive Plan review.
- He has a budget request for a dredging project proposed by Mr. Pierce

**PRIVILEGE OF THE FLOOR**

*Mr. Smith* spoke concerning his driveway that needs to be fixed by the Town. He is unhappy with the Town's offer of \$1500.

*Ms. Windels* spoke about Anchor Diamond Park. She noted that the trustee, Mr. Grasso, was not pleased with the three properties that were selected for the park; he felt that all the properties were overpriced. Mr. Grasso recommended the Hawkwood property. She respectfully requested that the Parks and Recreation Committee receive a copy of the letter from the trustee and the letter from the Surrogate Judge. She asked the Board for a full summary of the Hawkwood proposal.

**OLD BUSINESS**

1. 14 Lakehill Road

The owner has 60 days to take care of the remaining issues with his property.

2. Estate of Frank Schidzick & Anchor Diamond Park

The Town Attorney will try to get a court date.

3. Sewer Study

Councilman Goslin reported that the Sewer Committee has been very active.

- The committee finds a need for a grant writer. He will invite grant writer Sue Lombardy to a future Board meeting to discuss writing grants for the Town.
- The committee is creating a narrative that summarizes the findings of the report given by Dave Pierce at the last meeting.
- The construction group, lead by Dick Doyle and Jim DePasquale, have been working on the update of the 2006 Sewer Study. They revised the sewer district into zones and have included Clifton Park.

- There was a meeting with the residents on Eastside Drive, Supervisor Barrett and a Councilperson. Since a portion of the lake and the sewer project is in Clifton Park, a joint meeting is needed to look at water and sewer issues.
- New members have joined the committee and Councilman Goslin will give the necessary information on these members to the Board.

Councilwoman Hynes suggested the Board consider the Industrial Zoning legislation next since most of the attendees are at the meeting for this issue.

**RESOLUTION 13-246**

**NAME THE TOWN BOARD AS LEAD AGENCY FOR LOCAL LAW NO. 3 OF 2013 CONCERNING THE PROPOSED CHANGES TO THE INDUSTRIAL ZONING REGULATIONS.**

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to name the Town Board as Lead Agency for Local Law No. 3 of 2013 concerning the proposed changes to the Industrial Zoning Regulations.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.

Nays 0

**RESOLUTION 13-247**

**ESTABLISH A TYPE 1 NEGATIVE SEQRA DECLARATION FOR LOCAL LAW NO. 3 OF 2013 CONCERNING THE PROPOSED CHANGES TO THE INDUSTRIAL ZONING REGULATIONS.**

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to establish a Type 1 Negative SEQRA Declaration for Local Law No. 3 of 2013 concerning the proposed changes to the Industrial Zoning Regulations. The full environmental assessment form has been completed and reviewed concerning impacts.

ADOPTED: Ayes 4 Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.

Nays 1 Supervisor Southworth

Supervisor Southworth was opposed to this resolution since she receive the SEQRA document for review just prior to the meeting and she felt the Board needed assistance completing the form from experts in the environmental field.

**RESOLUTION 13-248**

**APPROVE LOCAL LAW NO. 3 OF 2013 CONCERNING THE CHANGES TO THE INDUSTRIAL ZONING REGULATIONS AS STATED IN VERSION 4 OF THE LOCAL LAW.**

Motion made by Councilman Goslin  
Seconded by Councilman Szczepaniak

Local Law No. 3 of 2013

A local law amending Chapter 138-3 and Article VIII of Chapter 138, Industrial District Regulations: §§ 138-13 to 138-21 by adding to or changing parts of Chapters 138-3, 138-13, 138-13.1, 138-13.1.1, 138-14, 138-15 (E), (H), 138-17, 138-18 (B), (C), 138-21 (A),(B) and by adding a new section 138-13.1.2 and by adding to the permitted uses table and the prohibited use table for said Article and by adding notes at the end of each use table.

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

**§ 138-3. Definitions; word usage.**

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future and the plural includes the singular; the word "lot" includes the word "plot"; the word

"building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."

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

**ACCESSORY**

The term applies to a use, building or other structure customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

**AGRICULTURE**

See "customary agricultural uses."

**ALTERATION**

As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities, or enlargement, whether by extending on a site or by increasing in height, or the moving from one location or position to another.

**ALTERATION, STRUCTURAL**

Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

**AREA, BUILDING**

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

**AREA, LOT**

The total area within the property lines, excluding external streets.

**ASSEMBLY HALL**

A building or a part of a building whose principal use is the assembly of 50 or more people for such uses as lodges, clubs, banquet rooms, etc. Community services are excluded from this category.

**AUTOMOBILE WRECKING YARD**

The use of any area or portion of any lot or plot, whether inside or outside a building for the temporary storage of automobiles awaiting dismantling or the dismantled parts of automobiles or the dismantling, cutting, demolition and burning of automobiles.

**BASEMENT**

A story partly underground.

**BILLBOARD**

A sign that is maintained by a business which contracts to advertise for other businesses.

**BOARDINGHOUSE**

A private dwelling in which at least four but not more than 10 sleeping rooms are offered for rent and table board may be furnished to roomers and in which no transients are accommodated. A rooming house or furnished room shall be deemed a boardinghouse.

**BUILDING**

Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattel.

**BUILDING, HEIGHT OF**

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deckline of mansard roofs and to a mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING LINES**

The line from the front of the building to the nearest front line of the lot. Side and rear building lines shall be determined in a comparative manner.

**BUILDING, PRINCIPAL**

A building in which is conducted the main or principal use of the lot on which said building is situated.

**CAMP and CAMP PARK**

Any area of land or water on which are located two or more cabins, tents, trailers, camp cars, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other more or less temporary living purposes and wherein no such accommodation is occupied more than four months of the year.

**CELLAR**

See "basement."

**COMPREHENSIVE PLAN**

The Town of Ballston Comprehensive Plan, dated December 2005 and adopted by the Town Board on June 12, 2006.

**CONDOMINIUM**

Housing consisting of a complex of dwelling units in which each unit is individually owned and the sale of which is regulated under Article 9-B of the Real Property Law of the State of New York.

**COVERAGE**

That percentage of the plot or lot area covered by building area, including accessory buildings and structures.

**CUSTOMARY AGRICULTURAL USES**

Ordinarily, the raising of crops, livestock or poultry, fruit or fur-bearing animals; where interpretation is required to determine whether a particular activity constitutes a customary agricultural use, the Zoning Board of Appeals shall consider whether said type of activity is traditional in the Town of Ballston and is recognized as an agricultural pursuit by a government agency or by an agricultural bureau.

**DRIVE-THROUGH SERVICE**

A business where a customer is permitted or encouraged, either by the design of physical facilities or by service and/or packaging procedures, to conduct business, or the providing and/or sale of goods and services, in the off-street parking area accessory to the business, while seated in a motor vehicle. Drive-through services are ancillary to the principal use and are typically associated with banks and fast-food restaurants.

**DUMP**

A lot or piece of land used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash or solid or liquid waste of any kind.

**DWELLING**

A building designed or used principally as the living quarters for one or more families. The term "dwelling," "one-family dwelling," "multiple dwelling," "two-family dwelling" or "dwelling group" shall not be deemed to include motel, automobile court, rooming house or tourist home.

**DWELLING, ONE-FAMILY**

A detached building containing one dwelling unit.

**DWELLING, TWO-FAMILY**

A detached building containing two dwelling units.

**DWELLING, MULTIPLE**

See "multiple dwelling."

**DWELLING UNIT**

A room or group of rooms providing complete housekeeping facilities for one family and occupied by a single-family unit, plus not more than three lodgers.

**EXTENSION or EXPANSION**

An increase in land or floor area occupied by a use or time devoted to use or scope of a use.

**FAMILY**

One or more persons related by blood, marriage or adoption, living and cooking together, exclusive of household servants; a number of persons living together as a single housekeeping unit, although not related by blood, marriage or adoption shall be deemed to constitute a family unit. A fraternity club or boardinghouse shall not be considered a family.

**FARM**

See customary agricultural uses.

**FILLING STATION**

Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles

and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or servicing such motor vehicles.

**FRONTAGE (also ROAD FRONTAGE and/or STREET FRONTAGE)**

The distance along which a lot adjoins a road or street at the right-of-way line. A road or street which provides frontage may be a state, county or Town road or a private road or street that has been approved by the Planning Board as part of a subdivision plat.

**GARAGE, PRIVATE**

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

**GARAGE, PUBLIC**

Any garage other than a private garage available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

**INDUSTRIAL, HEAVY**

Heavy industrial consists of assembling, fabrication and processing, bulk handling, storage, warehousing and trucking. These activities are likely to generate significant levels of truck traffic, noise, pollution, vibration, dust, fumes, odors, radiation, radioactivity, poisons, pesticides, herbicides, or other hazardous materials, fire or explosion hazards, or other undesirable conditions. These activities generally do generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation and other nuisance characteristics. Heavy Industrial manufacturing is considered not capable of control of external effects of the manufacturing process.

**HOME OCCUPATION**

(1) An accessory use of a service character which is clearly secondary to the use of the dwelling unit and its premises for residential living purposes of the person(s) carrying on such activity; and is conducted entirely within a dwelling unit; or is conducted entirely within an accessory structure to the dwelling unit on the same premises; and is solely carried on by a member or members of the family residing in the dwelling unit; and employs no more than one paid assistant who does not reside on the premises; and does not involve the keeping of stock in trade or the consignment, purchase and resale of goods, wares or merchandise in a volume or manner that adversely affects the character of the district; and does not display any exterior sign (except as permitted in Article XI, Signs); and does not result in the storage or display of materials in any open space outside the structure in which the home occupation takes place or variation from the residential character of the principal building on the premises; and does not produce any offensive noise, vibration, smoke, dust, odors, heat or glare; and parking provides for adequate off-street parking for any customer.

(2) In particular a "home occupation" may include the professional office of a physician, accountant, dentist, lawyer, management consultant or other professional persons, including violin, piano, other individual musical instrument or voice instruction, arts or craft instruction limited to a single pupil at a time, who offers skilled services to clients, and the occupation of dressmaker, milliner or seamstress shall also be deemed to be a "home occupation," including low-impact businesses such as computer work, consulting and trade persons who work out of their home and can meet the other criteria set forth herein and shall be allowed on special permit.

(3) Dancing instruction in groups, band instruction in groups, tearooms, tourist homes, convalescent homes, funeral homes, stores, trades or businesses of any kind herein excepted shall not be deemed to be "home occupations."

**HOTEL**

A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes by guests and where only a general kitchen and dining room are provided within the building or in an accessory building.

**HOUSE TRAILER**

See "mobile dwelling."

## JUNKYARD

(1) Any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old or secondhand motor vehicles or vehicles no longer in condition for legal use on the public highways are held, whether for the purpose of resale of used parts therefrom; for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise; for the disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles, which taken together equal in bulk two or more such vehicles; provided, however, that the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

(2) Such term shall also not be construed to mean an establishment having facilities for and engaged in the business of the repair of damaged and/or temporarily disabled motor vehicles unless two or more of said vehicles are individually so kept on said premises for a consecutive period of more than 14 days. Nor shall said term be construed to mean any place where said vehicles are enclosed in a building which when closed completely removes said vehicles from public view.

(3) This definition shall not apply to vehicles actively in use at agricultural and industrial work sites.

## INDUSTRIAL, LIGHT

Is a zoning classification to permit light manufacturing, processing, assembly and fabrication facilities, wholesale warehouses and storage facilities, equipment maintenance and research and development. This district is primarily for selective industries whose activities do not adversely impact the environment or quality of life of the residents of the Town or create an impact which is injurious to the public health, safety or general welfare of the residents or property owners of the Town of Ballston. Accordingly, due to the potential adverse and/or harmful impact of heavy industrial uses, such uses are explicitly excluded from this district.

## LINE, STREET

The dividing line between the street and the lot.

Deleted: ¶

## LODGING HOUSE

See "boardinghouse."

## LOT

A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or group of buildings that are united by a common interest or use and the customary accessories or open spaces belonging to the same.

## LOT, CORNER

A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

## LOT, DEPTH OF

A mean horizontal distance between the front and rear lot lines.

## LOT, WIDTH OF

The mean width measured at right angles to its depth.

## LOT LINES

Any line dividing one lot from another.

## LOT FRONTAGE

A lot line which is coincident with a street line.

## MANUFACTURING

Any process whereby the nature, size or shape of articles or raw materials is changed or where articles are assembled or packaged.

Comment [b1]: Removed manf light and heavy 7-13-13

## MEAN HIGH-WATER MARK

The average annual high water level.

## MIXED USE

Where more than one use occupies a structure, site or parcel, and may include a variety and mixture of nonresidential uses and/or residential uses.

## MOBILE DWELLING

A vehicle which is used or designed to be used for living or sleeping purposes and which is customarily standing on wheels or rigid supports, whether propelled by its own power or power of another vehicle to which it is attached.

#### **MOTEL**

A building or group of buildings, whether attached or detached, containing for hire individual living and sleeping accommodations, each of which is considered a unit, each of which is provided with a separate exterior entrance and a parking space and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an "auto court," "motor hotel," "motor court," "motor inn," "motor lodge," "tourist court," "tourist cabins" or "roadside hotel."

#### **MOTOR VEHICLE**

Any vehicle propelled or drawn by power other than muscular power, originally intended for use on public highways.

#### **MULTIPLE DWELLING**

Any building that contains or is proposed to contain more than two dwelling units for rent.

#### **NONCONFORMING USE**

A structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

#### **OPEN SPACE**

An unoccupied space open to the sky on the same lot with the building.

#### **OWNER**

The title holder of record of real property, or if he or she be deceased, then his or her estate.

#### **PARCEL**

Any tract or piece of land that is described in a deed of conveyance recorded in the Saratoga County Clerk's office and for which a Tax Map parcel identification number has been assigned.

#### **PARKING SPACE**

The area required for parking one automobile, which in this chapter is held to be an area nine feet wide and 20 feet long, not including passageways. Each parking area shall have direct open passageways to public roadways at all times.

#### **RESTAURANT**

Any establishment, however designated, at which food is sold for consumption on the premises to patrons seated within an enclosed building, elsewhere on the premises, or via a drive-through service.

#### **SERVICE (or SERVICE ESTABLISHMENT)**

Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

#### **SHORELINE**

That line at which land adjoins the water of lakes at the mean high-water mark.

#### **SIGN**

A message-bearing board, wall or other display, mounted, freestanding or portable, used to identify or advertise a business, organization, function or community development.

#### **SIGN, DISPLAY AREA**

The area contained within the largest regular geometric figure surrounding all letters, figures, symbols, displays or other illustrations which are printed, painted, stamped, cut, raised or attached to the surface of any building or other structure.

When letters, symbols, etc., are attached to a sign board, the sign display area shall include such backing.

#### **SIGN, TEMPORARY**

A sign not permanently affixed to a structure or the ground.

#### **SITE**

The total area to be used for development of a project, including but not limited to buildings, parking areas, stormwater detention or drainage areas and other project features. A site may encompass an entire parcel or a portion of a parcel.

#### **STORY**

That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

**STRUCTURE**

A combination of materials to form a construction that is safe and stable, and includes among other things stadiums, platforms, radio towers, sheds, storage bins, signs, satellite dishes, solar panels and pole-framed canvas or plastic-sided storage sheds.

**SWIMMING POOL**

Any artificial pool or structure intended for bathing or swimming purposes made of concrete, masonry, metal or other impervious materials having a depth in excess of 18 inches and located within 600 feet of a residence, home or dwelling other than the one associated with the pool.

**THEATER, OUTDOOR**

An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical production on a paid admission basis to patrons seated in automobiles or on outdoor seats.

**TOURIST CABINS**

See "motel."

**TOURIST HOME**

A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

**TRADITIONAL NEIGHBORHOOD DESIGN or TND**

A set of design standards applied to subdivisions and developments in the Hamlet and Ballston Lake Residential Districts for the purpose of promoting pedestrian friendly and compact residential neighborhoods.

**TRAILER**

See "mobile dwelling."

**TRAILER PARK (MOBILE HOME PARK)**

A land or floor area occupied or designed for occupancy by two or more trailers in use for living purposes.

**TRAILER SITE**

A unit of land or floor area within a trailer park for occupation by an individual trailer.

**UNFINISHED BUILDING**

A structure shall be deemed unfinished if it does not have a permanent roof, completely enclosed outside walls with the finished materials installed, all glazing in place, permanent heating system with masonry chimney ready for operation, permanent electric service and sewage installed.

**USE**

This term is employed in referring to the purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained or occupied; any occupation, business activity or operation conducted (or intended to be conducted) in a building or other structure or on land. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use or use requiring a special use permit.

**USED CAR LOT**

Any place outside a building where two or more used motor vehicles in operating condition are offered for sale or are displayed.

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Article VIII.

Light Industrial District Regulations

§ 138-13. Uses permitted

All uses permitted, specifically not permitted and all uses requiring a special permit are listed on the Uses, Area, Frontage and Setback Requirements for the Light Industrial District Table located at the end of this chapter.

§ 138-13.1. Area requirements.

All area requirements for each use are so indicated on the Uses, Area, Frontage and Setback Requirements for the Light Industrial District Table located at the end of this chapter.

§ 138-13.1.1. Purpose and intent.

The Light Industrial District is that portion of the Town which has been utilized by, and set aside for, uses that involve production, light manufacturing, processing, assembly, wholesale warehouses, storage facilities, equipment maintenance, distribution or fabrication (activities) facilities and research and development, and is an area where pedestrians are few and where uses are set back far from the frontage roads with natural buffering. This district is addressed in the Comprehensive Plan at Section 3.5, where it is noted that the district should also allow for a mixture of uses compatible with industrial uses especially in the gateway areas of this district. This district is primarily for selective industries whose activities do not adversely impact the environment or quality of life of the residents of the Town or create an impact which is injurious to the public health, safety or general welfare of the residents or property owners of the Town of Ballston.

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Deleted: , Editor's Note: The Comprehensive Plan is on file in the Town offices.

§138-13.1.2 Existing Uses

Upon the amendment of this section to change from Industrial to Light Industrial existing heavy industrial uses and facilities shall be designated as "preexisting non-conforming". Non-conforming facilities or uses will be prohibited from expanding operations except upon application to the Town Planning Board and upon granting by said board of a special use permit.

Comment [b2]: Added heavy 7-7-13

§ 138-13.2. Adult-oriented businesses or adult use businesses.

Adult-oriented businesses (also referred to as "adult use businesses") are authorized in the Industrial District of the Town of Ballston as a permitted use and shall be regulated and governed by

§ 138-13.2 of the Zoning Ordinance of the Town of Ballston.

A. Legislative intent and findings of fact.

(1) Background. The Town Board of the Town of Ballston has become aware of serious and substantial interests in the establishment of adult-oriented businesses in the Town of Ballston and has noted an increase in the number of neighboring communities enacting legislation seeking to regulate the establishment of adult-oriented businesses. Concern over the potential adverse secondary effects associated with adult-oriented businesses led the Town Board of the Town of Ballston to enact a ninety-day moratorium, effective February 5, 1999, which ninety-day moratorium was subsequently extended through April 1, 2000. During the moratorium period, the Town Board, along with Robert M. Penna, PhD., has caused an "Adult Use Study: Town of Ballston, New York," to be prepared to assess the probable adverse secondary impacts on the Town of Ballston which would result from the unregulated opening and establishment of adult-oriented businesses within the town.

(2) Findings. Based upon a comprehensive study of the adverse secondary impacts of adult use establishments as documented in accordance with the ruling of the United States Supreme Court in the matter of the City of Renton v. Playtime Theaters, Inc. [475 U.S. 41 (1986)] and commissioned by the Town Board of the Town of Ballston, the Town of Ballston finds that:

(a) There are adverse secondary impacts associated with the establishment and operation of adult-oriented businesses within a community.

(b) Among these adverse secondary impacts are a deterioration in the local quality of life, an adverse effect upon economic viability, an imposition, whether

intentional or unintentional, of exposure to adult-oriented expression undesired by neighbors, pedestrians and passersby, an increase in traffic, noise, litter and nuisance, criminal and illicit sexual behavior, a threat to the health and safety of children and young adults and an undermining of the established sense of community.

(c) These adverse secondary impacts of the establishment and operation of adult-oriented businesses are a threat to the general health, safety and economic viability of the community.

(d) The unregulated establishment and operation of adult-oriented businesses would lead to the widespread imposition of adverse secondary impacts upon the residents, businesses, economic viability, property values and quality of life of the town and would therefore be detrimental to the general health, safety and economic viability of the community.

(e) The United States Constitution, and the Constitution and laws of the State of New York grant to the Town of Ballston the powers, especially police powers, to enact reasonable legislation and measures to regulate the location and operation of adult-oriented businesses, hereinafter defined, in order to protect the general health, safety and economic viability of the community.

(3) Statement of intent.

(a) It is the express intent of the Town of Ballston in adopting this section to:

[1] Ameliorate, mitigate, reduce or prevent the widespread and unregulated imposition of the adverse secondary impacts of adult-oriented businesses upon the residents, businesses, economic viability, property values, quality of life and general health, safety and welfare of the community.

[2] Protect the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

(b) It is not the intent of the Town of Ballston in adopting this section to:

[1] Deny any person the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

[2] Impose upon any person any additional limitations or restrictions upon the right of free expression, guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the town under the United States Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression. These constitutionally protected rights are understood to include the right to sell, distribute and exhibit the legal goods and services offered by adult-oriented businesses.

[3] Impose upon any person any additional limitations or restrictions upon the right to obtain, view or partake of any communications guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses, beyond those granted to the town under the United States Constitution, the New York State Constitution and the laws of the State of New York regarding the time, place and manner of that free expression; or

[4] To estimate, decide, determine, resolve, consider, conclude, judge or qualify in any manner or fashion the quality or value of the content, nature, message, form, format, appearance, substance or presentation of the free expression guaranteed by the United States Constitution and the New York State Constitution, as may be expressed and presented in the form of goods and services offered by adult-oriented businesses.

(4) Aware that, according to numerous decisions by both federal courts and courts of the State of New York, the regulation of the location of adult businesses must be based upon a finding of the adverse secondary impact of these businesses upon the community and must be directed solely toward the mitigation of these impacts, not be directed toward any form of speech or expression, be no broader than necessary and must provide alternative locations within the town for adult use businesses, the Town of Ballston hereby adopts the following amendment to its Town Zoning Law.

## B. Definitions.

(1) For the purpose of this section, an adult-oriented business or adult use business shall be defined as any business which:

(a) Is the use of land, structures or location for an "adult entertainment business" or as an "adult physical contact establishment" as herein defined; and

(b) Is any use of land, structure or location which, by the provisions of the Penal Law, is required to restrict the access thereto by minors; and

(c) Is an establishment, location, building or structure which features topless dancers, nude dancers or strippers, male or female; and

(d) Is a location, building or structure used for presenting, lending or selling motion-picture films, videocassettes, cable television or any other such visual media, or used for presenting, lending or selling books, magazines, publications, photographs or any other written materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specific sexual activities" or "specific anatomical areas" as defined below.

(2) Adult use businesses. Adult use businesses, including adult book stores, adult video stores, adult motion-picture theaters, adult mini-motion-picture theaters, adult cabarets and adult drive-in theaters shall be defined as follows:

### **ADULT BOOK STORE**

An establishment having a substantial or significant portion of its stock-in-trade books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas as defined below.

### **ADULT VIDEO STORE**

An establishment having as a substantial or significant portion of its stock-in-trade video films, videocassettes or other films for sale or rental which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas as defined below.

### **ADULT MOTION-PICTURE THEATER**

A building with a capacity of 50 persons or more used for presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

### **ADULT MINI-MOTION-PICTURE THEATER**

An enclosed building with a capacity of less than 50 person used for presenting material distinguished or characterized by its emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

### **ADULT CABARET**

An establishment which features live go-go dancers, exotic dancers, strippers, male or female, male or female impersonators or similar entertainers whose performances are characterized by partial or full nudity.

**ADULT DRIVE-IN THEATER**

A drive-in theater utilized for the presentation of materials distinguished or characterized by their emphasis on matter depicting, describing or relating to specific sexual activities or specific anatomical areas, as defined below, for the observation of patrons therein.

**ADULT PHYSICAL CONTACT ESTABLISHMENT**

Any establishment which offers or purports to offer massage or other physical contact to patrons of either gender by employees or staff of either gender. Medical offices, offices of persons licensed or authorized under the Education Law to practice massage therapy, offices of persons licensed or otherwise authorized by the Education Law as a physical therapist or physical therapist assistant and electrolysis, karate, judo and dance studios are not to be considered adult physical contact establishments under this section.

**ADULT MOTEL**

A motel which is not open to the public generally, but excludes minors by reason of age, or which makes available to its patrons in their rooms closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which, if presented in a public movie theater, would not be open to the public generally, but would exclude any minor by reason of age, and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions or offers a sleeping room for rent for a period of time that is less than 10 hours.

**ADULT PEEP SHOW**

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

**(3) SPECIFIED SEXUAL ACTIVITIES:**

**(a)** Human genitals in a state of sexual stimulation or arousal; or acts of human masturbation, sexual intercourse or sodomy; or

**(b)** Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast.

**(4) SPECIFIED ANATOMICAL AREAS:**

**(a)** Less than completely and opaquely covered human genitals, pubic region, buttocks and female breasts below a point immediately above the top of the areola; or

**(b)** Human male genitals in a discernable turgid state, even if completely or opaquely covered.

**C. Location of adult-oriented business or adult use business within Industrial District.**

**(1)** Adult-oriented businesses or adult use businesses are permitted within the Industrial District, provided that no adult use be allowed within 300 feet of any of the Industrial District's boundary lines with an adjoining zoning district nor within 1,000 feet of the property line of any residential use or a zoning district that permits residential use.

**(2)** Adult-oriented businesses or adult use businesses shall not be allowed within 1,000 feet of the property line of a church or other house of worship, playground, park, school, day-care center, senior center, cemetery or structure, including fire stations and meeting halls or structures used as a community center, nor within 500 feet of a commercial or business zone.

(3) Adult-oriented businesses shall not be permitted to locate less than 500 feet from another such use, and not more than one adult-oriented business shall be permitted to locate within a single building or single lot.

(4) Adult-oriented businesses shall not exceed, in total, 2,500 square feet of floor area and cellar space not used for enclosed storage or mechanical equipment.

(5) Adult-oriented businesses shall be required to comply with all other development standards and requirements of the laws of the Town of Ballston, including, but not limited to, district lot and bulk regulations, parking requirements, signage, facade and screening regulations.

(6) Adult-oriented businesses shall not be permitted within any building where a portion of the floor area of the building is in residential use, including nonconforming residential uses, a school, house of worship, public or private recreational facility, community center or other public facility, motel or hotel.

(7) Adult-oriented businesses shall not be permitted to provide live entertainment on the premises which involves nude dancing that is lewd, indecent or grossly sexual in nature. This shall not be construed to include conduct of being nude that constitutes a part of a bona fide live communication, demonstration or performance by a person wherein such nudity is expressive conduct incidental to, and necessary for, the conveyance or communication of a genuine message or public expression and is not a guise or pretense utilized to exploit nudity, nor shall it include conduct that is protected by the United States or New York State Constitution.

(8) Any adult-oriented business that seeks to provide booths or areas, either for the viewing of motion pictures or live performances, shall meet the following requirements:

(a) Any and all such booths, cubicles, studios, studies and rooms for the private viewing of adult motion pictures and/or live performances or areas shall be open to public view from the common areas of the establishment. There shall not be any doors, curtains, blinds or other structures or devices that shall impede observation of the entire area of such private viewing areas from the common area of the establishment.

(b) Such private viewing areas shall be well lighted and readily accessible at all times and shall continuously be open to view.

(c) Lighting throughout an adult establishment shall be sufficient to illuminate every place to which patrons are permitted access.

(9) The exterior appearance of any building containing an adult-oriented business shall be consistent with the character of surrounding structures and shall not detract from the appearance of the neighborhood.

(10) Adult-oriented businesses shall conform with all existing applicable sign regulations in addition to the following specific requirements:

(a) Signs which are illuminated in neon or which contain flashing lights shall be prohibited.

(b) Exterior signs, displays or other advertisements which contain nude, semi-nude or provocative pictures shall be prohibited.

(c) Interior signs, displays, posters or other advertisements which contain nude, semi-nude or provocative pictures shall be located a minimum of four feet from any window or door and shall not be visible from the exterior of the establishment.

(d) Permanent and/or temporary window and door signs shall not occupy more than 20% of each window or door.

(11) Special use permits granted to adult-oriented businesses shall be nontransferable and shall be subject to renewal by the Zoning Board of Appeals on an annual basis. Property owners within 1,000 feet of the location of a proposed adult-oriented business shall be notified in writing of the day, time and location of the public hearing.

#### § 138-14. Environmental regulations.

The following restrictions shall also be subject to applicable New York State and/or federal regulations that apply to the Light Industrial District[s]. No facility will be allowed that shall:

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A. Cause the emission of excessive smoke, fumes, gas, dust or other atmospheric pollutant beyond the boundaries of the user's lot; and, for the purpose of this subsection, smoke shall be deemed excessive when its shade or appearance is darker than Number 2 on Ringelmann's scale for grading density of smoke.

B. Cause noise audible beyond the boundaries of the user's lot.

C. Discharge any waste material into any sanitary disposal system or sewage system, except as permitted by the public health authorities of the municipality controlling such sewerage system and as permitted by the Town of Ballston with respect to any town-owned or -operated sewerage system.

D. Store or stock any waste material on the premises of the user, other than that used in day-to-day operations.

E. Cause any adverse effect on town water sources, including groundwater supplies and Ballston Lake.

F. Protection of water sources and water quality shall be given the highest priority by the Zoning Board of Appeals or Planning Board in considering the regulations of this article and any site plan review.

G. Create an adverse effect on the environment, as defined by New York State Environmental Quality Review Act and its supplemental regulations. Specific attention shall be given by the Zoning Board of Appeals and Planning Board to wetland areas located in the boundaries of the industrial district, and all New York State regulations regarding the protection of such wetland areas shall be strictly complied with by all industrial district owners or developers.

Deleted: Editor's Note: See Article 8 of the Environmental Conservation Law.

H. Violate any of the provisions of Article XII, Activity Standards for Annoying and Injurious Substances, Conditions and Operations, of this chapter.

#### § 138-15. Facility and site requirements.

A. All users shall attractively landscape the unoccupied or unused portions of the premises with lawn, trees, shrubs or other plant material with due consideration to the natural growth and the nature and condition of the terrain.

B. There shall be a minimum lot size of 40,000 square feet or six times the total square footage (outside dimensions) of the building or buildings on the site, whichever is greater.

C. All building setbacks shall be a minimum of 100 feet from the front property line on all state or county roadways. All other building setbacks shall be 50 feet from the front property line for lots fronting on any municipal or private interior roads located within this Industrial Zone. All rear and side yard depths shall be not less than 30 feet from the property lines, except for residential buffer zones as required in Subsection E of

this section. No structures or uses associated with the principal use of the property (i.e., parking) shall be permitted within the required yard areas.

D. Off-street parking regulations shall be governed by Article XV, Off-Street Parking and Loading.

E. Where a Light industrial facility or use adjoins an existing residential property boundary line, a buffer strip along the property boundary of at least 100 feet in depth and landscaping shall be provided. A one-hundred-foot buffer strip must also be provided along the boundary line of any residential district. Where outside storage of materials will take place, nothing will be stored such that if it fell over, or off where it is stored, it could land on the real or personal property of other persons or entities.

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F. All users shall comply with such additional conditions and requirements as may be required by the Planning Board, including Planning Board regulations concerning maximum height of structures, security fencing and other such site requirements necessary to meet any of the standards hereinafter set forth.

G. The Zoning Board of Appeals may waive any of the requirements contained in the article where it finds that such requirements will impose an undue or unreasonable hardship or inconvenience and where such waiver will not adversely affect the surrounding area.

H. Access to the Light Industrial Zone shall be by Route 50, Route 67 and Underpass Road only.

#### § 138-16. Water and sewer requirements.

A. Buildings shall be provided with potable water, if required by regulations of the New York State Department of Health; municipal water supply to be used if accessible. If municipal water is not accessible, the use of individual wells will be permitted upon approval of the Planning Board. When individual wells are used as a water supply, the applicant shall provide information as to the water requirements, and the production rate of the well will be required to meet the demands in accordance with the New York State Department of Health regulations.

B. Sewage disposal shall be in accordance with the contents of Chapter 73, Health and Sanitation, § 73-2.

#### § 138-17. Construction standards.

All construction within the Light Industrial Zone shall conform to the applicable standards of the New York State Uniform Fire Prevention and Building Code. All building plans and site plans for construction within the Light Industrial Zone shall be approved by a New York State licensed design professional, as such professional is defined by § 7208 of the New York State Education Law.

Deleted: Editor's Note: See Ch. 62, Fire Prevention and Building Construction.

#### § 138-18. Permit requirements and administration.

A. Construction shall begin within one year from final approval and issuance of all required permits. The developer or his or her successors and assigns shall be solely and exclusively responsible for obtaining any permits required to commence development of the land as authorized by this chapter.

B. Nothing in this chapter shall be construed to satisfy the obligations of any person to obtain any governmental approval or permit from any governmental agency other than the Town of Ballston for activities proposed with the Light Industrial Zone.

C. Administration. This section shall be administered in accordance with the provisions set forth in Article XXII, Administration and Enforcement, of this chapter, and the provisions of such law relating to building permits, certificates of occupancy, interpretations, variances, special permits and violations shall apply to all uses and

proposed uses within the Light Industrial Zone unless noted otherwise in this article. This chapter shall also be administered in accordance with the provisions of Chapter 91, Site Plan Review, of the Code of the Town of Ballston. Construction within the Light Industrial Zone shall be subject to review and approval by the Town of Ballston Planning Board according to the standards and criteria established in the Town of Ballston site plan review procedures.

§ 138-19. Developer to provide roads and utilities.

The access roads and all water, sewage and stormwater control facilities shall be installed at no cost or expense to the town. Roads to be dedicated to the Town of Ballston will be built in accordance with town highway specifications.

§ 138-20. Use and change of use.

Any use of any of the land or buildings in the district shall be approved by the Planning Board of the Town of Ballston or its agent. Any change in use must comply with the regulations established by this article. "Change in use" shall include any use of the land or buildings for any purpose other than that for which approval has previously been given.

§ 138-21. Signs.

A. Light Industrial District sign regulations shall include those regulations established in Article XI, Signs, of this chapter, and any additional regulations described herein. Any inconsistency between the regulations of Article XI, Signs, and this section shall be governed by this section.

B. Each Light Industrial District site containing up to 10 acres of land shall be allowed one identification sign of no more than 40 square feet for purposes of site and business location. Within each such designated industrial site of up to 10 acres, there shall be no restriction on the number of signs used for business identification. Sign placement and the total number of signs shall be regulated and approved by the Planning Board during site plan review. It is the intention of this section to allow a sufficient number of business identification signs to be placed within such a designated industrial site, in order to provide adequate directional and building location information. The size, shape, height aboveground, quality of lettering and other such details shall comply with Article XI, Signs, of this chapter and such other requirements as may be imposed by the Town of Ballston Planning Board during the site plan review process.

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TABLE OF USES, AREA, FRONTAGE AND SETBACK REQUIREMENT  
LIGHT INDUSTRIA DISTRICT

Permitted Use	Special Use Permit	Review Board	Minimum Lot Area (square feet)	Minimum Frontage Street ( Feet)	Maximum Building Coverage	Maximum Building Height	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet)
Agriculture without animals									
Metal fabrication		PB	40,000	100	40%	40	50	30	30
Laundry and dry cleaning plants		PB	40,000	100	40%	40	50	30	30
Research and development		PB	40,000	100	40%	40	50	30	30
Light Manufacture		PB	40,000	100	40%	40	50	30	30
Automobile Parts		PB	40,000	100	40%	40	50	30	30
Aerospace systems		PB	40,000	100	40%	40	50	30	30
Electrical Components and appliances		PB	40,000	100	40%	40	50	30	30
Electronics		PB	40,000	100	40%	40	50	30	30
Microelectronics		PB	40,000	100	40%	40	50	30	30
Manufacture of metal and HDPE plastic drainage		PB	40,000	100	40%	40	50	30	30

products									
Water treatment and distribution systems	PB		40,000	100	40%	40	50	30	30
Automation Systems (robotics)	PB		40,000	100	40%	40	50	30	30
Data automation and communications	PB		40,000	100	40%	40	50	30	30
Information processing	PB		40,000	100	40%	40	50	30	30
Medical systems	PB		40,000	100	40%	40	50	30	30
Video systems	PB		40,000	100	40%	40	50	30	30
Environmental control	PB		40,000	100	40%	40	50	30	30
Permitted Use	Special Use Permit	Review Board	Minimum Lot Area (square feet)	Minimum Frontage Street ( Feet)	Maximum Building Coverage	Maximum Building Height	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet)
Warehousing and distribution centers less than 20,000 Sq Ft.	PB		40,000	100	40%	40	50	30	30
Wood products processing	PB		40,000	100	40%	40	50	30	30
Office buildings and support services for above industries	PB		40,000	100	40%	40	50	30	30
Printing, lithographing or publishing	PB		40,000	100	40%	40	50	30	30
Packaging industry	PB		40,000	100	40%	40	50	30	30
Broadcast studio	PB		40,000	100	40%	40	50	30	30
Public utility station	PB		40,000	100	40%	40	50	30	30
Textile industry	PB		40,000	100	40%	40	50	30	30
Food products preparation	PB		40,000	100	40%	40	50	30	30
Machine Tool and machinery parts manufacturing	PB		40,000	100	40%	40	50	30	30
Stone or monument works	PB		40,000	100	40%	40	50	30	30
Cold storage plant	PB		40,000	100	40%	40	50	30	30
Telephone exchange	PB		40,000	100	40%	40	50	30	30
Transportation services accessory and local except truck terminals	PB		40,000	100	40%	40	50	30	30

Automobile and truck rental facilities	PB	40,000	100	40%	40	50	30	30
Animal care facilities	PB	40,000	100	40%	40	50	30	30
Emergency ambulance facilities	PB	40,000	100	40%	40	50	30	30
Research laboratories	PB	40,000	100	40%	40	50	30	30
Accessory retail	PB	40,000	100	40%	40	50	30	30
Equipment maintenance.	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30
	PB	40,000	100	40%	40	50	30	30

Permitted use	Special Use Permit	Review Board	Minimum Lot Area (Square Feet)	Minimum Frontage (feet)	Maximum Building Coverage	Maximum Building Height (feet)	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet)
	Agriculture with animals	ZBA							
	Warehousing and distribution centers more than 20,000 Square Feet	PB	40,000	100	40%	40	50	30	30
	Fuel, gasoline, oil storage tanks	PB	40,000	100	40%	40	50	30	30
	Energy Systems	PB	40,000	100	40%	40	50	30	30
	Truck terminals	PB	40,000	100	40%	40	50	30	30
	Storage and repair of heavy equipment	PB	40,000	100	40%	40	50	30	30
	Junkyards	PB	40,000	100	40%	40	50	30	30
	Retail	PB	40,000	100	40%	40	50	30	30
	Adult-oriented businesses	PB	40,000	100	40%	40	50	30	30
	Distilling operations (farm)	PB	40,000	100	40%	40	50	30	30

All new uses and structures (new and additions) require site plan review by the Planning Board

Any uses not listed are not permitted.

New flag lots permitted in Rural District only.

Key: PB: Planning Board  
 ZBA: Zoning Board Of Appeals  
 TB: Town Board

TABLE OF PROHIBITED USES IN LIGHT INDUSTRIAL DISTRICT

Prohibited Uses 1

Asphalt plant  
Manufacture or storage of fireworks, explosives or abrasives  
Manufacture of fertilizer or glue, but not organic fertilizer or organic glue  
Manufacture of Dye or rubber and non farm alcohol  
Storage or manufacturing of petroleum or other flammable liquids  
Manufacture of Corrosive acid or alkali  
Manufacture or storage of Toxic Chemicals referenced in 15 USC § 1261  
Manufacture of ammonia  
Manufacture of chloride  
Manufacture of bleaching powder  
Manufacture of boilers  
Manufacture of large steel tanks  
Manufacture of large steel vessels  
Manufacture of brick or tile  
Manufacture of glutinous derivatives  
Manufacture of lampblack  
Manufacture of lime cement  
Manufacture of plaster of paris  
Manufacture of oil cloth  
Manufacture of linoleum  
Manufacture of paint, varnish and turpentine  
Manufacture of printing ink  
Manufacture of pyroxoline plastic or things made of said substance  
Manufacture of soap  
Manufacture of starch  
Manufacture of glucose  
Manufacture of dextrine products  
Manufacture of sulfurous products  
Manufacture of Manufacture of nitric acid  
Manufacture of hydrochloric acid  
Manufacture of Tar or tar products  
Manufacture of carcinogenic dyes  
Assaying any metal except gold or silver  
A crematory  
Distillation of coal, wood bones, or tar  
Rendering of fats, tallow, grease or lard  
Rendering of any organic material, including offal  
Rendering of any dead animals  
Rendering of refuse  
An iron, steel, brass or copper foundry  
Structural steel fabrication where a drop hammer is used  
Refining of petroleum  
Tanning, storage or curing of rawhides or skins  
Packing, curing or processing of raw fish or raw fish products  
Smelting of metals  
Motor Vehicle, snowmobile or other motorized vehicle race tracks or operations  
Auto wrecking yard or scrap metal storage outside  
Stone or gravel crushing  
Power generation plants

(1) This list of prohibited uses is to be used as a guide and may not be all inclusive.

This Local Law becomes effective upon filing by the Town Clerk with the Secretary of State of the State of New York  
Dated: September 24, 2013

TOWN BOARD— TOWN OF BALLSTON	Yes	No
: Patricia Southworth, Supervisor		X
Mary Beth Hynes, Town Council	X	
Timothy Szczepaniak, Town Council	X	
William Goslin, Town Council	X	
Kelly Stewart	X	

#### ADOPTED

Councilman Goslin said that the changes to the Industrial Zone began eighteen months ago. The Town Board acts as the Town Board Legislature. It is the Town Board's job to correct issues with the Town Law including zoning; this is basically home rule. He stated that he takes this job very seriously. We approved by Town Resolution Light Industrial changes and the Town proceeded to enact these changes into law. Currently, there are few restrictions on industrial uses in the Industrial Zone. Petroleum mining, steel manufacturing, chemical fertilizer plant and nuclear fracking facility are all possible in the Industrial Zone. This zone borders Ballston Lake and the tributaries to other lakes and the Hudson River. Heavy Industrial Use could create environmental impacts on the watershed and the surrounding environment. There are often unintended consequences when heavy industry is near environmental exposure. He gave examples of the Copper Film Plant in Hoosick Falls, which killed the fish, GE Capacitor in Hudson Falls, the PCB cleanup, Knolls Atomic Power Lab in Niskayuna, superfund cleanup site, West Milton Site tried to store nuclear waste and Malta Test Site also a superfund cleanup site. These industries have impacted the environment; we need to be smarter in the Town of Ballston. The Town Board and the Planning Board have approved residential properties that neighbor and border the Industrial Zone. The people bought their homes due to the rural character of the Town not to live next to heavy industry. People and commercial retail are not part of heavy industry. There exists the opportunity for harmony with light industry, commercial development and residential development. Our legislation supports this plan. Our Comprehensive Plan outlines the area shift to Light Industry. Light Industry supports more jobs than Heavy Industry. Surrounding towns do not have heavy industry and so our current zoning attracts it. He thanked all residents for attending the meetings and working so hard for the last eighteen months. Your Board has listened to you and the Board proposed a solution to change the zoning to Light Industrial.

Councilwoman Hynes supports the zoning changes as they are in keeping with the Comprehensive Plan and the rural character of our Town. She supports business. Her goal is to consider the needs of business and that why the Board worked for revisions to the legislation and addressed concerns of local businesses. We had three Public Hearings. We submitted the changes to the Saratoga County Planning Board and the Town Zoning Board of Appeals for review. Only one business sent a letter with threatening comments on potential litigation. She supports revisiting the Comprehensive Plan since it was written from the viewpoint of Global Foundries potentially building in this area. Now Global Foundries is seeking to expand and we need to take a fresh look at the Plan. We need to include the update to the Comprehensive Plan in our budget process.

Councilwoman Stewart said she is supporting the Light Industrial Zoning Amendment. She believes that the language in this amendment more accurately reflects the intended and anticipated uses in our Town's Industrial Zone. The Industrial Zone is located near a lake, a bike trail and a residential area. We have heard from many residents who have expressed a variety of concerns including traffic, noise and air and water quality. Although current zoning regulations may indeed be sufficient to disqualify operations which are harmful in those respects without this amendment, the goal here is to provide our Planning and Zoning Boards with more specific criteria to evaluate proposed projects. Like any law it is merely a reflection of the public will. She believes that this Board has listened to everyone involved. There may be differences of opinion, but everyone was given a voice and an ear and that the Board tried to address the concerns of

the owners of property within the industrial park who are also taxpaying citizens. We are not seeking to prevent the growth of new or existing business. She has often stated her belief that the Town needs to encourage commercial growth in order to develop the tax base required to provide needed, mandated and desired services. The Board has heard almost no opposition to the zoning change except from a single applicant. This issue has been widely publicized and discussed and everyone has been given the opportunity to weigh in. The fact that a group of citizens is vocal and strongly supportive of a position does not alone mean that position is right or that a governing body must be swayed. We as a Board cannot infringe on any protected rights, but we can enact laws that we feel, based upon the public hearing and democratic process, reflect the people's will. The other issue of concern is the legal aspect. I have a fiduciary duty to all the taxpayers and residents in the Town of Ballston to make sure that my actions do not cause harm to the Town legally or financially. Opponents of the zoning change argue that they have a right to be exempt from this change and that they will defend that right. I have confidence in our Town Attorney and in our Planning Board Attorney that they can properly advise this body, and the Zoning and Planning Boards, as to whether or not the current amendment can be legally imposed against a specific applicant or any other business. The issue may very well need to be litigated. It would be a costly and uncertain process that we should seek to avoid, but she does not believe we are acting totally against settled legal principles. She cautioned that we may need legal counsel to assist us to the possible merits of a suit based upon a claim of "misrepresentation" by this Board regarding the application of the amendment to pending applications. The vote tonight is not about a specific applicant. We take up this proposal with the more broad aim of ensuring that the Town of Ballston remains a great place to live and raise our families.

Councilman Szczepaniak stated this has been a fair and transparent process over the last eighteen months. He did not appreciate the threats made to the Town Board and those threats will not affect his decision in this vote. It is time to do due diligence for the residents of this Town and do the right thing. He votes in favor of the Light Industrial amendment.

Supervisor Southworth said she would love to be able to support this legislation but she cannot do so. The Town Board, the Planning Board and the Zoning Board all have work to do in the best interest of the public. During this process, she has worked very hard to uphold her oath of elected office. It is her responsibility to prevent government from doing something wrong and causing problems for the Town regardless of her personal opinions. It is not about the big money; it is about the process. The fact that this proposed legislation jumps and circumvents the process of an applicant is wrong. Applicants before the Zoning Board and Planning Board have a right to complete the process and be approved or disapproved based on the merits of its own project. Her vote is not in regards to any one application but it is solely about following the law and playing by the rules. Just as there are speed limit signs and stop signs, rules we must follow, we violate them and there is a price to pay. She is following the rules and that is what she is doing by voting no.

#### **RESOLUTION 13-249**

#### **AUTHORIZE THE PURCHASE OF ONE COMPUTER FOR THE ASSESSOR CLERK AND ONE COMPUTER FOR THE TAX COLLECTOR AT A COST OF \$716 AND UP TO \$190 EACH FOR SOFTWARE INSTALLATION**

A motion was made by Councilman Goslin and seconded by Councilwoman Stewart to authorize the purchase of one computer for the Assessor Clerk and one computer for the Tax Collector at a cost of \$716 and up to \$190 each for software installation.

Decrease \$1812 from the Contingency Fund

Increase Assessor Equipment by \$906

Increase Tax Collector Equipment by \$906

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.

Nays 0

**RESOLUTION 13-250**

**APPROVE THE LOW BID FROM TOM KUBRICKY (TKC) FOR \$121,508 FOR THE MORNINGDALE COURT WATER MAIN, BURNT HILLS-BALLSTON LAKE WATER DISTRICT NO.2 EXT.#24.**

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to approve the low bid from Tom Kubricky (TKC) for \$121,508 for the Morningdale Court Water Main, Burnt Hills-Ballston Lake Water District No. 2 Ext #24.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.

Nays 0

**RESOLUTION 13-251**

**REAPPOINT ANTON ROHRMEIER TO THE BOARD OF ASSESSMENT REVIEW.**

A motion was made by Councilman Szczepaniak and seconded by Councilwoman Hynes to reappoint Anton Rohrmeier to the Board of Assessment Review for a term commencing October 1, 2013 and ending September 30, 2018.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.

Nays 0

**RESOLUTION 13-252**

**APPROVE A RESOLUTION PROCLAIMING SEPTEMBER AS CHILDHOOD CANCER AWARENESS MONTH.**

A motion was made by Councilwoman Hynes and seconded by Councilman Goslin to approve a resolution proclaiming September as Childhood Cancer Awareness Month.

Resolving September 2014 As Childhood Cancer Awareness Month

WHEREAS, every September, federal, state and local governments renew their commitment to curing childhood cancer and increasing public awareness of this terrible disease; and

WHEREAS, childhood cancer remains the leading cause of death by disease for American children under the age of 15, with an estimated 11,630 children under the age of 15 expected to be diagnosed with cancer in the United States in 2013, which is approximately 32 children per day; and

WHEREAS, in New York State, 617 children per year are diagnosed with cancer on average, and approximately 82 children in the State succumb to this horrible disease annually; and

WHEREAS, the most common forms of childhood cancer are leukemia and cancers of the brain and central nervous system; and

WHEREAS, while the causes of childhood cancer remain largely unknown, significant advances in treatment over the last 30 years have led to an increase in the combined 5 year survival rate for children with cancer of more than 20 percentage points; and

WHEREAS, while more effective methods of treatment have helped reduce childhood cancer mortality rates, three out of five children who survive suffer late treatment effects, such as impaired function of certain organs, secondary cancers, cognitive deficits, and infertility, necessitating proper long term follow-up care; and

WHEREAS, cancer takes a painful and life-altering toll on a child and the child's family, and usually causes delayed development in the child's life, education and growth, while parents cope with high costs, stress, travel and other difficulties associated with caring for their ill child; and

WHEREAS, it is appropriate for this Town Council to extend its support to all young people fighting cancer, and to recognize all those who provide care to children with

cancer and commit themselves to finding a cure for this tragic disease; now, therefore, be it

RESOLVED, that the Town Council of the Town of Ballston declares September 2014 to be "Childhood Cancer Awareness Month" in the Town of Ballston, and encourages all Ballston residents to support children and families coping with childhood cancer, and to extend gratitude to those who provide medical treatment and support to children experiencing cancer as well as to those seeking a cure for childhood cancer.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.  
Nays 0

**RESOLUTION 13-253**

**AUTHORIZE A GRANT APPLICATION FOR THE BURNT HILLS-BALLSTON LAKE WATER DISTRICT NO. 2 WATER CONSOLIDATION STUDY.**

Motion by Councilwoman Hynes  
Second by Councilman Goslin

WHEREAS, the Town Council of the Town of Ballston has plans to proceed with a study to consolidate Burnt Hills-Ballston Lake Water District #2 and its 10 extensions and at least two proposed extensions; and

WHEREAS, the Ballston Town Council authorizes CT Male to prepare and assist in execution of the program and authorizes Patricia A. Southworth, Town Supervisor to act as lead applicant to execute all financial and/or administrative processes relating to the implementation of the program; and

WHEREAS, the project title and description are as follows: Burnt Hills-Ballston Lake Water District #2 Consolidation Study. Perform study of consolidating Water District #2 and its ten extensions and at least two proposed extensions. Consolidation will facilitate better record keeping, expedited billing and debt repayment, and

WHEREAS, the funding request is for \$15,000 with the local share of the cost is 50 percent of the funding request, Now Therefore Be It,

RESOLVED, the Town Council of the Town of Ballston agrees to all the points proceeding the resolved and directs the Town Clerk to record and certify this resolution and include it with the grant application

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.  
Nays 0

**RETURN TO OLD BUSINESS**

4. Hawkwood Proposal

Councilman Goslin reported on his discussion with the attorneys for the Hawkwood Estate. The attorneys expect resolution of the estate in the near future. They stated that the property was offered to the Town at a set price and they are not looking at other options. They need the Town to clarify our position. Councilman Goslin told the attorneys that the parcel is deserving of preservation and the Board will respond to the attorneys in a reasonable amount of time and indicate our intention with regards to this property.

Supervisor Southworth stated there are two options for the purchase of the Hawkwood property

- 1) special election is held on referendum to bond the money for the purchase of the property
- 2) the estate purchases the property.

10. Bridgewater Apartments Water Connection

The owner has requested direction from the Board on how to proceed with this issue. Discussion was held concerning calculating the cost of the connection so that it is fair to the owners of Bridgewater Apartments and to the residents of Water District No.2 Ext 12. The Board will address this issue at the next meeting.

**RESOLUTION 13-254**

**SET A PUBLIC HEARING FOR AMENDING CHAPTER 138-12 OF THE TOWN CODE BY ADDING MICRO-DISTILLERIES AS A USE IN BUSINESS HIGHWAY 1 AND BUSINESS HIGHWAY 2 FOR OCTOBER 29<sup>TH</sup> AT 7:00 P.M.**

A motion was made by Councilman Goslin and seconded by Councilwoman Hynes to set a Public Hearing for amending Chapter 138-12 of the Town Code by adding micro-distilleries as a use in Business Highway 1 and Business Highway 2 for October 29<sup>th</sup> at 7:00p.m.

ADOPTED: Ayes 5 Supervisor Southworth, Councilwoman Hynes, Councilman Szczepaniak, Councilman Goslin and Councilwoman Stewart.

Nays 0

Supervisor Southworth asked about the Stonebridge Lighting District. Town Attorney Brower said the Stonebridge Lighting District is part of the legislation of the Stonebridge PUDD. The cost is borne by the residents as part of the Homeowners Association. The developer pays the cost of the installation.

11. The Oliver Property, Unsafe Structure

The property owner has 30 days to take down the building or make it safe.

A motion was made by Councilwoman Stewart and seconded by Councilman Szczepaniak to adjourn the meeting.

Respectfully submitted,

Carol R Shemo  
Town Clerk