

## Chapter 109

**WATER RESOURCES PROTECTION**

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**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 1-14-1992 as L.L. No. 1-1992. Amendments noted where applicable.]**

**§ 109-1. Findings; purpose.**

The Town Board finds that protection of the town's groundwater, surface waters, wetlands, watersheds, creeks, ponds, lakes, streams, rivers, aquifers and other water resources from degradation and pollution is in the best interest of the town because of present or projected use of such water resources. The safeguarding of the town's water resources will help protect the public health, safety and welfare of the inhabitants of the town. The Town Board further determines that it is in the best interest of its inhabitants to protect and conserve the character, the clean and attractive environment, the stability and the value of all parts of the town by enacting this chapter.

**§ 109-2. Title.**

This chapter shall be known and may be cited as the "Water Resources Protection Law of the Town of New Baltimore."

**§ 109-3. Definitions.**

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

**ABANDON** (and its derivatives) - Includes to stop, to suspend or to leave unsupervised for thirty (30) days or longer.

**PERSON** - Includes any individual; firm; partnership; corporation, public or private; company, public or private; municipality or other public or governmental body; professional or other association; trust; business trust; joint venture; and any combination thereof.

**TOWN** - The Town of New Baltimore, Greene County, New York.

**TOWN BOARD** - The Town Board of the Town of New Baltimore.

**WASTE DISPOSAL SITE** - Includes, without limitation, a place or facility used for the storage, dumping, discharge, deposit, injection, spilling, discarding, disposal, leaking, burying, burning or abandonment by the public or by any person of any solid or liquid waste material discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, radioactive material, pathological or medical waste, toxic or hazardous material, industrial and commercial waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris and discarded automobiles. Materials which are being beneficially used, including compost, wood chips used for mulch, landscaping, agricultural or erosion control purposes, manure or crop residuals resulting from normal farming operations, and facilities at which recyclables are collected are specifically excluded from this definition.

**WATER RESOURCES** - Includes groundwater, surface waters, wetlands, watersheds, creeks, ponds, lakes, streams, including intermittent, rivers, tributaries, aquifers and other water resources found within, flowing through or flowing under the town and all plant and animal life associated therewith.

**WETLANDS** - Includes all areas defined as wetlands by state or federal law or regulation.

**§ 109-4. Restrictions and requirements.**

No person shall engage in any of the following prohibited actions or activities:

- A. Disposal or injection wells. The installation or use of disposal or injection wells is prohibited, except for heat pumps used for residential purposes.
- B. Hazardous substances or wastes. Without all required state or federal permits, the storage for use of hazardous substances or wastes, as defined by the United States Environmental Protection Agency or the New York Department of Environmental Conservation, is prohibited.
- C. Wastewater lagoons and pits. Use of industrial wastewater lagoons and pits for storage of industrial wastewater is prohibited. Lagoons or pits for the temporary storage of agricultural wastewater or for manure shall be either under permit by the New York State Department of Environmental Conservation or constructed and managed in accordance with best management practices.
- D. Disposal. Disposal of any hazardous substance or waste or of radioactive material is prohibited.
- E. Fertilizer storage. All bulk storage of fertilizers for commercial use must be within a completely enclosed building or structure that will prevent any seepage or runoff and that is constructed and managed in accordance with best management practices.
- F. Pesticide use. Use, storage or application of all pesticides shall be under permit as provided by the New York State Environmental Conservation Law or in accordance with best management practices.
- G. Salt and coal stockpiles. The storage of salts or coal is prohibited except in a completely enclosed building or structure that will prevent any seepage or runoff containing such materials.
- H. Waste disposal sites. The siting, operation and/or maintenance of all waste disposal sites is prohibited within two thousand five hundred (2,500) feet of a water resource.
- I. Abandoned wells. All abandoned wells shall be sealed in accordance with the requirements of the New York State Department of Health or with best management practices. For purposes of this subsection, an

"abandoned well" means a well whose use has been permanently discontinued or a well which is in such a state of disrepair that continued use for the purpose of obtaining a satisfactory groundwater supply is impracticable.

#### **§ 109-5. Moratorium on new mining.**

In accordance with § 109-1 of this chapter, the Town Board hereby declares a moratorium on all new mining of sand, gravel, topsoil, rock, shale, clay and/or other natural mineral deposits which require a permit pursuant to the provisions of § 23-2711 of the Environmental Conservation Law of the State of New York. For purposes of this section, "mining" shall be defined as in § 23-2705 of the Environmental Conservation Law of the State of New York. Said moratorium shall remain in force and effect for a period of twelve (12) months from the effective date of this chapter and may be extended by the Town Board if deemed necessary by said Board.

#### **§ 109-6. Penalties for offenses; liability for damage and costs.**

- A. Violation of this chapter shall give rise to appropriate enforcement action and may give rise to civil action.
- B. Any person who permits, takes part in or assists in the violation of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine of not less than the sum of five hundred dollars (\$500.) and not more than the sum of fifty thousand dollars (\$50,000.), by up to fifteen (15) days' imprisonment, or by both. When a violation of this chapter is continuous, each twenty-four hour period shall constitute a separate and distinct offense.
- C. In the event that a convicted violator is a corporation, company or professional association, that entity may be assessed a fine double the maximum amount hereunder. If the convicted violator is a corporation, company or professional association, in addition to the fine that may be assessed, each corporate officer of said entity and the entire Board of Directors of said entity may be prosecuted hereunder as individual violators above and beyond any conviction and/or sentencing against the entity with which such individual is associated.
- D. Any person who violates this chapter shall be liable to the town for any expense, loss or damage, including damage to the environment, resulting from such violation and shall be required, at the violator's

sole expense, to remedy any effects of the violation on surrounding or adjacent properties or water resources.

- E. Should the town deem it necessary for the protection of the health and well-being of its inhabitants, the Town Board or its legally authorized representatives may enter upon the premises or land of any person or legal entity in violation of this chapter or suspected to be in violation of this chapter for purposes of monitoring, cleanup and controlling in any way necessary any existing or potential threat to the town's water resources located on or beneath said premises or land. The expenses and costs associated with said monitoring, cleanup and/or control shall be assessed against the offending person, person holding legal title, owner and/or occupant of said premises or land and/or shall be assessed against the real property and shall constitute a lien and charge against said real property until fully and completely discharged.
- F. The Town Board in the name of the town may maintain a legal or equitable action or proceeding in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

#### **§ 109-7. Existing development and land use.**

Existing development and land use are not subject to the requirements of this chapter and are considered permitted nonconforming uses. Any abandonment for three (3) months or longer of or change in a permitted nonconforming use will be subject to the requirements of this chapter. Notwithstanding the foregoing, if any permitted nonconforming use is found to pose a potential or imminent health hazard or threat to the town's water resources, it shall be deemed a violation of this chapter.