

## NOTICE OF ADOPTION OF RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Babylon, County of Suffolk, State of New York, at a regular meeting thereof held on the 27<sup>th</sup> day of April, 2022 duly adopted a resolution, an abstract of which is as follows:

### RESOLUTION NO. 393 APRIL 27, 2022

**ADOPTING LOCAL LAW NO. 10 AMENDING THE CODE OF THE TOWN OF BABYLON, CHAPTERS 1 (GENERAL PROVISIONS), 23 (ETHICS), 74 (ALCOHOLIC BEVERAGES), 84 (BINGO), 94 (CABARETS AND DANCE HALLS), 99 (COASTAL EROSION HAZARDS), 101 (CONSUMER PROTECTION), 106 (DOGS AND OTHER ANIMALS), 108 (DREDGING), 117 (LAND EXCAVATIONS), 121 (FIREARMS), 123 (FIRE PREVENTION), 125 (FLOOD DAMAGE CONTROL), 128 (FRESHWATER WETLANDS), 133 (SOLID WASTE MANAGEMENT), 136 (GRAFFITI), 137 (HISTORIC AREAS, PRESERVATION OF), 145 (BAMBOO), 146 (LITTERING), 149 (MEMORIAL DAY AND INDEPENDENCE DAY SALES), 153 (MULTIPLE DWELLINGS), 156 (NOISE), 157 (NOTICE AND CERTIFICATES OF ASSESSMENT), 162 (PAWNBROKERS AND SECOND-HAND DEALERS), 165 (PEACE AND GOOD ORDER), 166 (PERSONAL PROPERTY, SALE OF), 170 (PLUMBING), 173 (PUBLIC ASSEMBLY PLACES), 180 (TAXICABS AND VEHICLES FOR HIRE), 183 (SHELLFISH), 189 (STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL), 190 (STORM SEWERS: ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS), 191 (STREETS AND SIDEWALKS), 198 (TOWING), 209 (VEHICLES, OFF-ROAD), 211 (WATER) AND 213 (ZONING)**

WHEREAS, the Town Board of the Town of Babylon having duly called and held a Public Hearing at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst, NY 11757 on the 13<sup>th</sup> day of April, 2022 upon the question of enactment of Local Law 10 of 2022 of the Town of Babylon, Suffolk County, New York, being a Local Law amending specified chapters of the Code of the Town of Babylon; and

WHEREAS, in accordance with Part 617.5(c)(26), State Environmental Quality Review (SEQR), the adoption of this Local Law is classified a Type II Action and not subject to environmental review under SEQR.

NOW, THEREFORE, be it

RESOLVED AND ORDAINED, by the Town Board of the Town of Babylon, that Local Law 10 of 2022 of the Town of Babylon, Suffolk County, New York, is hereby enacted as follows and effective upon its filing with the New York State Department of State:

### LOCAL LAW NO. 10 of 2022

**AMENDING THE CODE OF THE TOWN OF BABYLON, CHAPTERS 1 (GENERAL PROVISIONS), 23 (ETHICS), 74 (ALCOHOLIC BEVERAGES), 84 (BINGO), 94 (CABARETS AND DANCE HALLS), 99 (COASTAL EROSION HAZARDS), 101 (CONSUMER PROTECTION), 106 (DOGS AND OTHER ANIMALS), 108 (DREDGING), 117 (LAND EXCAVATIONS), 121 (FIREARMS), 123 (FIRE PREVENTION), 125 (FLOOD DAMAGE CONTROL), 128 (FRESHWATER WETLANDS), 133 (SOLID WASTE MANAGEMENT), 136 (GRAFFITI), 137 (HISTORIC AREAS, PRESERVATION OF), 145 (BAMBOO), 146 (LITTERING), 149 (MEMORIAL DAY AND INDEPENDENCE DAY SALES), 153 (MULTIPLE DWELLINGS), 156 (NOISE), 157 (NOTICE AND CERTIFICATES OF ASSESSMENT), 162 (PAWNBROKERS AND SECOND-HAND DEALERS), 165 (PEACE AND GOOD ORDER), 166 (PERSONAL PROPERTY, SALE OF), 170 (PLUMBING), 173 (PUBLIC ASSEMBLY PLACES), 180 (TAXICABS AND VEHICLES FOR HIRE), 183 (SHELLFISH), 189 (STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL), 190 (STORM SEWERS: ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS), 191 (STREETS AND SIDEWALKS), 198 (TOWING), 209 (VEHICLES, OFF-ROAD), 211 (WATER) AND 213 (ZONING)**

Section 1.      AMEND as follows:

### CHAPTER 1 GENERAL PROVISIONS ARTICLE II GENERAL PENALTIES

#### § 1-15 Penalties for Offenses.

- A. Unless otherwise provided herein or in any ordinance, chapter, article, section, provision or amendment thereto, any person, firm or corporation violating any ordinance, chapter, article, section, provision or amendment or addition thereto, herein contained or hereafter adopted or of any New York State codes, laws, statutes or regulations or failure or neglect to comply with any order issued pursuant thereto, shall be guilty of a ~~violation~~ an offense and, upon conviction thereof, a fine of not less than \$250 and not more than \$2,500 must be imposed or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment. [Amended 7-12-2011 by L.L. No. 13-2011]

- B. Each day that a violation of zoning regulations or of any New York State codes, laws, statutes or regulations persists shall constitute a separate offense (Chapter 213 hereof).

[Amended 7-12-2011 by L.L. No. 13-2011]

- C. Each day that a continuing violation (defined herein below) of zoning regulations or of any New York State codes, laws, statutes or regulations persists shall be subject to a separate criminal penalty.

[Amended 7-12-2011 by L.L. No. 13-2011]

- D. Each day any and all other continuing violations (defined herein below) of the Babylon Town Code or of any New York State codes, laws, statutes or regulations persist shall be subject to a separate criminal penalty.

[Amended 7-12-2011 by L.L. No. 13-2011]

- E. All criminal penalties shall be mandatory penalties and must be imposed. There shall be no unconditional or conditional discharges without mandatory penalties being imposed. Only upon application by the Special Assistant District Attorney, and for good cause shown, may the court sentence a defendant to a conditional discharge without the mandatory penalty also being imposed.
- F. Any criminal penalty imposed shall be in addition to any civil penalty; provided, however, that no person shall be subject to a civil penalty and criminal penalty for the same violation at the premises on the same day.
- G. Continued violation. There shall be a presumption that a violation continues from the day the Town establishes that said violation existed until the violation's existence is rebutted, ~~but in any case.~~ However, the presumption shall extend no longer than 30 days for each criminal offense charged unless the offense charged is a misdemeanor in which case the presumption proceeding; brought for a violation, may extend up to and no longer than 60 days for each criminal proceeding brought for a misdemeanor.
- H. Ownership. There shall be a presumption of ownership by the person indicated as the owner by the deed on file in the Babylon Tax Assessor's office. Said presumption may be rebutted by a certified copy of a deed recorded in the Suffolk County Clerk's office or other similar evidence inherently trustworthy and competent.
- I. Upon application of the Town Attorney's office, any offense based on a violation of this Code or of any New York State codes, laws, statutes or regulations may be reduced to an "attempted ~~violation~~ offense" as established by the New York State Penal Law § 110.00. Penalties for the reduced charge of attempt shall be:

[Added 10-6-2009 by L.L. No. 16-2009; amended 1-25-2011 by L.L. No. 1-2011; 7-12-2011 by L.L. No. 13-2011]

- (1) Any person who shall attempt to violate any of the provisions of this Code or of any New York State codes, laws, statutes or regulations shall be guilty of ~~a violation~~ an offense, and upon conviction thereof, a fine of not less than \$100 nor more than \$500 must be imposed and a term of imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, a fine not less than \$500 nor more than \$1,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, a fine not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both. Each day's continued violation shall constitute a separate additional violation offense.
- J. Appearance tickets. The following employees, agents, officers or servants of the Town of Babylon shall have the power to issue appearance tickets for offenses based on violations of the Babylon Town Code, any New York State codes, laws, statutes or regulations: Zoning Inspectors, Building Inspectors, Ordinance Enforcement Officers, Fire Marshals, Park Rangers, Bay Constables for offenses based on violations of Chapter 81 of the Babylon Town Code; Sanitation Inspectors for offenses based on violations of Chapter 133 of the Babylon Town Code, and any employee, agent, officer or servant of the Town of Babylon as may from time to time be appointed to do so by the Chief of Staff.

#### § 1-16 Civil penalties.

[Amended 5-4-2004 by L.L. No. 14-2004; 6-19-2007 by L.L. No. 9-2007; 12-19-2007 by L.L. No. 23-2007]

- A. The Bureau of Administrative Adjudication is authorized to conduct adjudicatory proceedings for violations of the Town Code as set forth in Chapter 66 of this Code. Any person or entity found by the Bureau of Administrative Adjudication to have violated a provision of this Code shall be subject to a monetary penalty of not less than \$100 nor more than \$2500 unless a specific monetary penalty for such violation is set forth for the particular code provision that has been violated.
- B. ~~A. In addition to the criminal penalties set forth herein~~ Notwithstanding any proceedings before the Bureau of Administrative Adjudication, the Town Attorney is authorized to pursue in any court of competent jurisdiction any and all actions in law or equity, including but not limited to actions for: compensatory damages; civil penalties; to compel compliance, or to restrain by injunction, violations of this Code, any New York State codes, laws, statutes or regulations and any other remedies which the Town Attorney may deem necessary and proper. Relief may be sought in any court of competent jurisdiction or from any duly appointed hearing officer whenever permitted by law.  
[Amended 4-22-2009 by L.L. No. 5-2009; 7-12-2011 by L.L. No. 13-2011]

- (2) Any owner, lessee, occupant, person or entity found by a court of competent jurisdiction to have violated any of the provisions of this Code shall be subject to a civil penalty. [Amended 4-22-2009 by L.L. No. 5-2009]
  - (a) Each day of a continuing violation shall be subject to an escalating civil penalty. If the section which has been violated does not provide a civil penalty, then the penalty shall be as follows: \$350 for the first day of violation or any part thereof, \$500 for the second day of violation or any part thereof, and \$1,000 for the third day of violation or any part thereof, and for all subsequent days of violation, up to and including the 60th day the violation persists.
  - (b) ~~Civil penalties may be recovered in any action or proceeding brought by the Town Attorney in any court of competent jurisdiction or before a duly appointed hearing officer whenever permitted by law.~~

(2) All such civil penalties shall be mandatory penalties and must be imposed upon a judgment in favor of the Town. If said penalty is not paid to the Town of Babylon within 10 days of a judgment, a civil judgment shall be entered against the property, and the owner of the property and said judgment may be collectable by a tax assessment against the property on which said violation occurred.

(3) Any civil penalty imposed by a court of competent jurisdiction shall be in addition to any fine and/or imprisonment as a result of a criminal prosecution provided for in the Babylon Town Code or any state or local law and in addition to any monetary penalty imposed by the Bureau of Administrative Adjudication. There is no requirement of notice prior to the commencement of a civil action.

- ~~B. Strict liability imposes a standard that personal knowledge of the existence of a violation is not required, hence no *mens rea* (intent) is required, and any and all violations charged herein shall be one of strict liability.~~
- C. Continued violation. There shall be a presumption that a violation continues from the day the Town establishes that said violation existed until the violation's existence is rebutted, but in any case, the presumption extends no longer than 60 days for each civil action filed regarding a violation.
- D. Ownership. There shall be a presumption of ownership by the person indicated as the owner by the deed on file in the Babylon Tax Assessor's office. Said presumption may be rebutted by a certified copy of a deed recorded in the Suffolk County Clerk's office or other similar evidence inherently trustworthy and competent.
- ~~E. Appearance tickets. The following employees, agents, officers or servants of the Town of Babylon shall have the power to issue appearance tickets for violations of the Babylon Town Code, any New York State codes, laws, statutes or regulations: Zoning Inspectors, Building Inspectors, Ordinance Enforcement Officers, Fire Marshals, Park Rangers; Bay Constables for violations of Chapter 81 of the Babylon Town Code; Sanitation Inspectors for violations of Chapter 133 of the Babylon Town Code, and any employee, agent, officer or servant of the Town of Babylon as may from time to time be appointed to do so by the Chief of Staff. [Amended 7-12-2011 by L.L. No. 13-2011]~~

§ 1-17 **Action to compel compliance.**

In addition to the fine and/or imprisonment and civil penalties as provided for in §§ 1-15 and 1-16 of this article, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any such ordinance, chapter, article, section, provision or amendment or addition herein contained or hereafter adopted.

§ 1-18 **Prosecution Proceeding where different penalties exist for the same offense violation.**

~~In all cases where the same offense conduct may violate more than one provision of the Town Code, be made punishable or shall be created by different violate different clauses or sections of the ordinances of the Town, the prosecuting officer the Town Attorney may elect under which provision to proceed; but not more than one recovery shall be had against the same person for the same offense conduct.~~

**CHAPTER 23  
ETHICS**

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§ 23-26 **Penalties for offenses violations.**

Any municipal officer or employee of the Town who willfully and knowingly violates any provision of Article 18 of the General Municipal Law and this Code of Ethics may be fined, suspended or removed from office or employment in the manner provided by law.

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**CHAPTER 74  
ALCOHOLIC BEVERAGES**

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§ 74-5 **Penalties for offenses violations.**

[Amended 1-21-2009 by L.L. No. 1-2009]

Any person found guilty of violating this chapter shall be guilty of a Class B misdemeanor, and upon conviction thereof, a fine of not less than \$250 nor more than \$1,000 must be imposed or a term of imprisonment for a period not to exceed 90 days may be imposed, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, the person shall be guilty of a Class B misdemeanor, and upon conviction, a fine of not less than \$1,000 nor more than \$2,500 must be imposed or a term of imprisonment for a period not to exceed 90 days may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, the person shall be guilty of a Class B misdemeanor and a fine not less than \$2,500 nor more than \$5,000 must be imposed or a term of imprisonment for a period not to exceed 90 days may be imposed, or both. Any person found by the Bureau of Administrative Adjudication to have violated this chapter shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

**CHAPTER 84  
BINGO**

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§ 84-14 **Penalties for offenses violations.**

The unauthorized conduct of a bingo game and any willful violation of any provisions of this chapter shall constitute and be punishable as a ~~misdemeanor~~ provided in §§ 1-15 through 1-17 of this Code.



**CHAPTER 94  
CABARETS AND DANCE HALLS**

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§ 94-26 **Penalties for offenses violations.**

- A. Any person who shall violate any provision of this chapter or any of the rules and regulations adopted by the Building Inspector pursuant to this chapter shall be guilty of ~~a violation~~ an offense and a fine of not less than \$500 nor more than \$5,000 must be imposed or imprisonment for a period not to exceed 15 days may be imposed, or both. Each day's continued violation shall constitute a separate ~~violation-offense~~. [Amended 10-7-2003 by L.L. No. 19-2003]
- ~~B. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.~~
- B. Any person found by the Bureau of Administrative Adjudication to have violated this chapter or any rule or regulation adopted thereunder shall likewise be subject to a monetary penalty in an amount within the range of fines authorized in subdivision A for any offense or continuing offense.

**CHAPTER 99  
COASTAL EROSION HAZARDS**

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§ 99-30 **Penalties for offenses violations.**

Except for a violation of § 99-14 herein, a violation of this chapter is hereby declared to be an offense punishable by a fine of not less than \$100 nor more than exceeding \$1,000 or imprisonment for a period not to exceed six months, or both. Each day's continued violation of this chapter will constitute a separate additional ~~violation~~ offense. Any person or entity found by the Bureau of Administrative Adjudication to have violated any provision of this chapter other than § 99-14 shall likewise be subject to a monetary penalty of not less than \$100 nor more than \$1,000. Penalties for violation of § 99-14 are provided for in Chapter 81 of the Babylon Town Code. Nothing herein will prevent the proper local authorities of the Town of Babylon from taking such other lawful actions or proceedings as may be necessary to restrain, correct or abate any violation of this chapter.

**CHAPTER 101  
CONSUMER PROTECTION**

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§ 101-5 **Penalties for offenses violations.**

- A. The violation of any provision of this chapter or of any rule or regulation promulgated hereunder shall be punishable, upon proof thereof, by the payment of a civil penalty in the sum of not less than \$250 nor more than \$1,500 to be recovered in a civil action in a court of competent jurisdiction. [Amended 10-7-2003 by L.L. No. 20-2003]
- B. ~~The knowing~~ In addition, the violation of any provision of this chapter or of any rule or regulation promulgated hereunder shall be an offense punishable, upon conviction thereof, ~~by the payment of a civil penalty in the sum of \$2,500 or as a violation for which a fine in the sum of \$5,000 shall be imposed, or both a fine of not less than \$2,500 nor more than \$5,000.~~ [Amended 10-7-2003 by L.L. No. 20-2003] Any person or entity found by the Bureau of Administrative Adjudication to have knowingly violated this chapter or any rule of regulation promulgated hereunder shall likewise be subject to a monetary penalty of not less than \$2,500 nor more than \$5,000.

C. \*\*\*

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**CHAPTER 106  
DOGS AND OTHER ANIMALS  
ARTICLE I  
DOGS**

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§ 106-9 **Penalties for offenses violations.**

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- B. Any person violating any provision of this article shall be guilty of ~~a violation~~ an offense and, upon conviction thereof, shall be subject to a fined of not less than \$250 nor more than \$1,000 or imprisonment not exceeding 15 days, or both for the first offense; and shall be subject to a fined of not less than \$1,000 nor more than \$1,500 or imprisonment not exceeding 15 days or both for the second offense committed within five years of the first offense; and to the penalties provided in §§ 1-15 ~~through 1-17 of this Code~~ for each succeeding offense committed within five years of the first offense. Any person found by the Bureau of Administrative Adjudication to have violated any provision of this article shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses. The foregoing penalties shall be in addition to the payment of such amounts as are required for the redemption of any dog seized by the Animal Control Officer. [Amended 8-16-2011 by L.L. No. 15-2011]

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**ARTICLE III  
LIMITATION ON DOGS HOUSED**

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**§ 106-28 Penalties for offenses violations.**

Any person violating any provision of this article shall be guilty of ~~a violation~~ an offense and, upon conviction thereof, shall be subject to a fine of not less than \$500 ~~nor more than \$2,500.~~ Any person found by the Bureau of Administrative Adjudication to have violated any provision of this article shall likewise be subject to a monetary penalty of not less than \$500 nor more than \$2,500. If said person owning, possessing or harboring a dog in violation of this article fails to make application to the Town Board for special permission to legalize said violation, the Dog Control Officer shall, after obtaining a warrant to remove, seize any dog whose continued presence on the property would violate this section. Such animal seized shall be housed and fed at the Town of Babylon Animal Shelter for a minimum period of 14 days. If, after 14 days after seizure, the owner or person in charge of said dog has failed to make application for special permission, if so warranted, the Town Board may grant an additional thirty-day period of time in which the owner or person in charge of said dog shall comply with this article and reclaim said dog. If said owner or person in charge of a dog has failed to comply with the provisions of this section after 44 days after seizure of a dog, then the Town of Babylon shall take control and ownership of said dog and may take any measure necessary to place such dog for adoption in a safe and healthful environment.

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**ARTICLE IV  
DISPOSAL OF DEAD ANIMALS**

**§ 106-30 Regulations; penalties for offenses violations.**

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- B.** A violation of Subsection A is ~~a violation~~ an offense, and, upon conviction thereof, a fine of not less than \$250 and not more than \$1,000 must be imposed or imprisonment for a period not to exceed 15 days, or by both.
- C.** A person being the owner or possessor, or having charge, custody or possession of an animal, who abandons such animal, or leaves it to die in a street, road or public place, or who allows such animal, if it becomes disabled, to lie in a public street, road or public place more than three hours after he knew or should have known that it is left disabled, is guilty of a Class A misdemeanor, and, upon conviction thereof, a fine of not less than \$500 and not more than \$5,000 must be imposed or imprisonment for a period not to exceed one year, or both.
- D.** Any person found by the Bureau of Administrative Adjudication to have violated Subsection A or to have abandoned an animal in violation of Subsection C shall likewise be subject to a monetary penalty in an amount within the range of fines authorized in Subsections B and C respectively.

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**ARTICLE V  
REGULATION OF DANGEROUS DOGS**

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**§ 106-34 Penalties for offenses violations.**

- A.** The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a domestic animal causing physical injury shall be subject to a ~~civil penalty~~ fine of not less than \$100 nor more than not to exceed \$400, in addition to any other applicable penalties.
- B.** The owner of a dog who, through any act or omission, negligently permits his or her dog to bite a domestic animal causing serious physical injury shall be subject to a ~~civil penalty~~ fine of not less than \$200 nor more than not to exceed \$800 in addition to any other applicable penalties.
- C.** The owner of a dog who, through any act or omission, negligently permits his or her dog, which had previously been determined to be dangerous pursuant to state or local law, to bite a domestic animal, or a person, causing serious physical injury, shall be guilty of a misdemeanor punishable by a fine of not ~~less than \$100 nor more than \$1,000~~, or by a period of imprisonment not to exceed 90 days, or by both such fine and imprisonment in addition to any other applicable penalties.
- D.** If any dog, which had previously been determined by a judge or justice to be a dangerous dog as defined in § 106-32 of this article, shall, without justification, kill or cause the death of any domestic animal, or a person, who is peaceably conducting itself, himself or herself in any place where it, he or she may lawfully be present, regardless of whether such dog escaped without fault of the owner, the owner shall be guilty of a Class A Misdemeanor, in addition to any other penalties.
- E.** Any dog owner found by the Bureau of Administrative Adjudication to have violated Subsections A, B, C or D shall likewise be subject to a monetary penalty in an amount within the range of fines authorized in such subsections.
- F.** The owner shall not be liable pursuant to Subsections A, B, C or D of this section if the dog was coming to the aid or defense of a person during the commission or attempted commission of a murder, robbery, burglary, arson, rape in the first degree as defined in § 130.35, Subdivision 1 or 2, of the New York Penal Law, sodomy in the first degree as

defined in § 130.50, Subdivision 1 or 2, of the New York Penal Law, or kidnapping within the dwelling or upon the real property of the owner of the dog and the dog injured or killed the person committing such criminal activity.

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## ARTICLE VI FEEDING OF WATERFOWL

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### § 106-41 Penalties for offenses violations.

A violation of this article shall be an offense punishable by a fine of not less than \$100, nor more than \$500. Any subsequent ~~violation~~ offense occurring within five years of the ~~date of such first violation~~ offense shall be punishable by a fine of not less than \$250, nor more than \$750. Any person found by the Bureau of Administrative Adjudication to have violated this article shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

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## CHAPTER 108 DREDGING

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### § 108-23 Penalties for offenses violations.

Any person or entity violating this chapter shall be guilty of a misdemeanor, which shall be punishable by a fine of not less than \$100 nor more than \$500 \$2,500 or by imprisonment for a period not exceeding six months for each such ~~violation~~ offense, or by both such fine and imprisonment. Any person or entity found by the Bureau of Administrative Adjudication to have violated this chapter shall likewise be subject to a monetary penalty of not less than \$100 nor more than \$2,500.

## CHAPTER 117 LAND EXCAVATIONS ARTICLE II LAND RESOURCE EXCAVATIONS

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### § 117-18 Penalties for offenses violations.

For any and every violation of the provisions of this article, the owner, lessee, agent or contractor of the premises where such violations have been committed or shall exist, and the lessee or tenant of the premises where such violation has been committed or shall exist, and the owner, agent, contractor or lessee or tenant of any part of the premises in which part of said violation has been committed or shall exist, and the agent, architect, engineer, surveyor, contractor or any other person who knows, permits, takes part or assists in any such violation or who maintains any premises in which any such violation shall exist shall be guilty of ~~a violation~~ an offense punishable as provided in §§ 1-15 ~~through 1-17~~ and shall be subject to civil penalties provided in §§ 1-16 and 1-17 of this Code. Each day's violation shall constitute a separate ~~violation~~ offense. Such fines or penalties shall be collected as like fines or penalties are now by law collected.

## CHAPTER 121 FIREARMS

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### § 121-4 Penalties for offenses violations.

Any person violating the provisions of this chapter shall be ~~guilty of an offense~~ and subject to the criminal and civil penalties provided in §§ 1-15 through 1-17 of ~~the this Code of the Town of Babylon.~~

## CHAPTER 123 FIRE PREVENTION ARTICLE XXXIII VALIDITY AND EFFECTIVE DATE

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### § 123-1902 Penalties

- a. Any person or entity violating the provisions of this chapter shall be guilty of ~~a violation~~ an offense and upon conviction thereof be punishable by fine or imprisonment as provided for in Section 1-15 of the ~~Uniform Code of Ordinances~~ of the Town of Babylon. In addition, any person or entity violating the provisions of chapter shall be subject to civil penalties as provided in Sections 1-16 and 1-17 of the Town Code.

- b. \*\*\*

**CHAPTER 125  
FLOOD DAMAGE CONTROL  
ARTICLE II  
GENERAL PROVISIONS**

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**§ 125-9 Penalties for noncompliance.**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall be guilty of an offense and shall, upon conviction thereof, be fined not less than \$250, and not more than \$1,000 ~~must be imposed~~, or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Any person found by the Bureau of Administrative Adjudication to have violated this chapter shall likewise be subject to a monetary penalty of not less than \$250 nor more than \$1,000. Nothing herein contained shall prevent the Town of Babylon from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not in compliance with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article V will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

**CHAPTER 128  
FRESHWATER WETLANDS**

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**§ 128-24 Penalties for offenses violations.**

- A.** Administrative sanctions. Any person who violates, disobeys or disregards any provision of this chapter, including any provision of any permit issued pursuant to this chapter or any rule or regulation adopted by the Agency pursuant to this chapter, shall be liable to the people of the state for a civil penalty of not to exceed \$3,000 for every such violation, to be assessed, after a hearing or opportunity to be heard upon due notice and with the rights to specification of the charges and representation by counsel at such hearing, by the Agency. Such penalty may be recovered in an action brought by the Attorney General at the request and in the name of the Agency in any court of competent jurisdiction.  
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- B.** Criminal sanctions. Any person who violates an order, permit or rule or regulation of the Agency regulating freshwater wetlands and adjacent areas pursuant to this chapter shall, in addition, ~~for the first offense~~, be guilty of a ~~violation~~ an offense punishable by a fine of not less than \$500 nor more than \$1,000 for a first offense; for a second and each subsequent offense committed within five years of the first offense, he or she shall be guilty of a misdemeanor punishable by a fine of not less than \$1,000 and not more than \$2,000 or a term of imprisonment of not less than 15 days nor more than six months, or both. Instead of these punishments, any offender may be punishable by being ordered by the court to restore the affected freshwater wetland to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be affected under the supervision of the Agency. Each offense shall be a separate and distinct offense, and in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- C.** Civil penalties. Any person found by the Bureau of Administrative Adjudication to have violated an order, permit or rule or regulation of the Agency regulating freshwater wetlands and adjacent areas pursuant to this chapter shall likewise be subject to a monetary penalty in an amount within the range of fines set forth in subsection B for a first offense, subsequent offenses and continuing offenses.

**CHAPTER 133  
SOLID WASTE MANAGEMENT  
ARTICLE VII  
PENALTIES FOR OFFENSES; RESTRICTIONS**

**§ 133-31 Penalties for offenses violations.**

[Amended 10-7-2003 by L.L. No. 22-2003; 3-7-2006 by L.L. No. 8-2006; 6-19-2007 by L.L. No. 13-2007; 4-9-2008 by L.L. No. 9-2008]

- A.** Any owner, lessee, occupant, person or entity who shall fail or refuse to comply with the provisions of any written notice herein provided for or who shall refuse to remove any motor vehicle, appliance, solid waste, rubbish or debris, shall be guilty of an offense upon conviction of said violation shall be fined punishable by a fine of not less than \$250 nor more than \$2,500 or by imprisonment for a period not exceeding 15 days ~~for each offense~~, or by both fine and imprisonment. The mandatory minimum fine must be imposed and there shall be no discretion in imposing the mandatory minimum fine; no unconditional discharge or any other sentence which does not include the mandatory minimum fine or term of imprisonment may be imposed, except upon application of the Special Assistant District Attorney and consent of the court. Each day that such violation shall be permitted to continue shall constitute a separate offense hereunder.
- B.** Notwithstanding any other provision of this chapter, but except as provided in Subsections §-133-31 C, D and/or E below, upon a ~~first~~ conviction of a first offense based on a violation of any provision of this chapter, a fine of not less than \$500 nor more than \$2,500 must be imposed and ~~by~~ imprisonment for a period not exceeding 15 days for each offense may be imposed, ~~or by both fine and imprisonment~~, upon a ~~second~~ conviction of a second offense based on a



violation of any provision of this chapter committed within five years of the first offense, a fine of not less than \$2,500 nor more than \$5,000 must be imposed and ~~by imprisonment for a period not exceeding 15 days for each offense may be imposed, or by both fine and imprisonment~~; and upon ~~any subsequent conviction of a third or subsequent offense based on a violation of any provision of this chapter committed within five years of the first offense~~, a fine of not less than \$5000 nor more than \$7,500 must be imposed and ~~by imprisonment for a period not exceeding 15 days for each offense may be imposed, or by both fine and imprisonment~~, and upon conviction of any offense based on a violation of this chapter, by plea or trial, the mandatory minimum fine must be imposed and there shall be no discretion in imposing the mandatory minimum fine; no unconditional discharge or any other sentence which does not include the mandatory or imprisonment may be imposed, except upon application of the Special Assistant District Attorney and consent of the court. Each day that such violation shall be permitted to continue shall constitute a separate offense hereunder.

- C. ~~Upon the conviction of a first offense based on a violation of § 133-35A, B and/or C, a fine of not less than \$1,500 nor more than \$5,000 must be imposed and, after notice and hearing by the Sanitation Commission, a suspension of a license issued hereunder for a period of not less than 15 days. Upon the conviction of a A second or subsequent offense based on a violation of § 133-35A, B and/or C committed within five years of a previous conviction for a like the first offense shall be punishable as a misdemeanor and a fine of not less than \$2,500 nor more than \$10,000 must be imposed and imprisonment of 15 days or more may be imposed, and, after notice and hearing by the Sanitation Commission, a suspension of a license issued hereunder is subject to suspension for a period of not less than 30 days. A third offense based on a third violation of § 133-35A, B and/or C committed within seven five years of a previous conviction for a like the first offense shall result in, after notice and hearing by the Sanitation Commission, the revocation of a license issued hereunder.~~
- D. Upon conviction for any action by any person, firm, corporation or other entity which violates or does not comply with any provision of Article V or any regulation thereof, a fine of not less than \$150 nor more than \$250 ~~upon a first conviction~~ must be imposed for a first offense, not less than \$250 nor more than \$500 must be imposed ~~upon a second conviction for a second offense committed within five years of the first offense~~, and not less than \$500 nor more than \$1,000 must be imposed upon a third or subsequent ~~conviction offense committed within five years of the first offense~~.
- E. Upon a conviction for an offense based on the violation of § 133-7, a fine of not less than \$2,000 nor more than \$5,000 must be imposed; provided, however, that for any violation of § 133-7 that results in an expense for cleanup, remediation or disposal to the Town and/or a recycling contractor, a fine of not less than \$2,000 nor more than \$5,000 must be imposed, plus the cost of cleanup, remediation and disposal of the hazardous waste or unacceptable waste causing such violation. In addition, a violation of § 133-7 shall be punishable, after notice and hearing by the Sanitation Commission, by a suspension of a license issued hereunder for a period of not less than 15 days, and a second violation of § 133-7 within one year of the date of a first violation shall be punishable, after notice and hearing by the Sanitation Commission, by a revocation of a license issued hereunder.
- F. Any person or entity found by the Bureau of Administrative Adjudication to have violated any provision of this chapter shall likewise be subject to a monetary penalty in an amount within the range of fines set forth in subsections A, B, C, D and E for the respective violations reference therein for a first offense and subsequent offenses. Liability findings by the Bureau of Administrative Adjudication, either alone or in combination with criminal convictions, can likewise form the predicate for license suspension or revocation pursuant to subsections C and E.

**CHAPTER 136  
GRAFFITI  
ARTICLE I  
GENERAL PROVISIONS**

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**§ 136-5 Penalties for offenses violations.**

[Amended 8-17-1993 by L.L. No. 8-1993]

- A. Any person who shall violate the provisions of § 136-4 of this chapter shall be guilty of ~~a violation an offense and, upon conviction thereof, shall be~~ punishable by a fine not ~~less than \$100 nor more than exceeding~~ \$250 for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not ~~less than \$250 nor more than exceeding~~ \$500; and for conviction of a third ~~or subsequent~~ offense, all of which were committed within a period of five years, punishable by a fine not ~~less than \$500 nor more than exceeding~~ \$750.
- B. Any person who shall violate § 136-3 of this chapter shall be guilty of a Class A misdemeanor, punishable by a fine of not ~~less than \$250 nor more than~~ \$1,000 or imprisonment for not more than one year, or both. The court may, in its discretion, suspend the fine if, with the consent of the property owner, the offender agrees to and does, in fact, restore the property to the condition it was in prior to its destruction, damage or defacement or agrees to and does, in fact, provide restitution for the restoration of the property to the condition it was in prior to its destruction, damage or defacement, whichever the court determines is appropriate under the circumstances. In making this determination, the court shall also consider recommendations made by the victim.
- C. Penalty increases.

- (1) If a person does all of the following, the penalties for the ~~violation~~ offense shall be increased as provided in Subsection C-2 of this section.
- (a) Violates the provisions of § 136-3 of this chapter.
  - (b) Intentionally selects the person or group of persons whose property is defaced without the express written consent of the owner or proprietor thereof or selects the property which is damaged or otherwise affected by the act because of the race, color, religion, disability, sexual orientation, national origin or ancestry of that person or group of persons or the owner or occupant of that property and defaces said property with graffiti indicating bias or hatred of the persons selected due to the victim's race, color, religion, disability, sexual orientation, national origin or ancestry.
- (2) If a ~~violation~~ an offense as described in Subsection C-1 above is proven, the offender shall be guilty of a Class A misdemeanor, punishable by a fine of not more than \$1,500 or imprisonment for not more than one year, or both. The court may, in its discretion, with the consent of the property owner, require the offender to restore the property to the condition it was in prior to its destruction, damage or defacement or require restitution for the restoration of the property to the condition it was in prior to its destruction, damage or defacement, whichever the court determines is appropriate under the circumstances. In making this determination, the court shall also consider recommendations made by the victim.
- D.** Any person found by the Bureau of Administrative Adjudication to have violated § 136-4 of this chapter shall be subject to a monetary penalty in an amount within the range of fines set forth in subsection A for a first offense and subsequent offenses. Any person found by the Bureau of Administrative Adjudication to have violated § 136-3 of this chapter shall be subject to a monetary penalty in an amount within the range of fines set forth in subsection B. The monetary penalty for a violation of § 136-3 shall be modified as provided in subsection C if the factors specified therein for an enhanced penalty are established.

## ARTICLE II REMOVAL OF GRAFFITI

### § 136-8. Responsibilities of owner.

[Amended 5-5-2011 by L.L. No. 10-2011; 6-9-2014 by L.L. No. 8-2014]

It is the responsibility of the owner, and his or her lawful occupant, lessee and person in charge, of any building or structure which has been defaced with graffiti to completely remove said graffiti from the building or structure within five days of the defacement. Failure to remove said graffiti within five days shall be ~~deemed a violation~~ an offense punishable by a fine of not less than \$250 nor more than \$1,000 which must be imposed and a term of imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, a fine not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, a fine not less than \$2,500 nor more than \$5,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both. Each day's continued violation shall constitute a separate additional ~~violation~~ offense. Any person or entity found by the Bureau of Administrative Adjudication to have failed to remove graffiti within five days of defacement is likewise subject to a monetary penalty of an amount within the range of fines set forth above for a first offense, subsequent offenses and continuing offenses.

### § 136-9. Failure to Comply.

[Amended 1-25-2011 by L.L. No. 4-2011; 5-5-2011 by L.L. No. 10-2011; 6-9-2014 by L.L. No. 8-2014]

Failure of the owner, or his or her lawful occupant, lessee or person in charge, of any building or structure to remove graffiti therefrom within five days after receipt of the written notice shall be ~~deemed a violation~~ an offense, punishable by a fine of not less than \$500 nor more than \$1,000 which must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, a fine not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, a fine not less than \$2,500 nor more than \$5,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both. Each day's continued violation shall constitute a separate additional offense ~~violation~~. Any person or entity found by the Bureau of Administrative Adjudication to have failed to remove graffiti within five days after the receipt of written notice is likewise subject to a monetary penalty of an amount within the range of fines set forth herein for a first offense, subsequent offenses and continuing offenses.

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## CHAPTER 137 HISTORIC AREAS, PRESERVATION OF

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### § 137-13 Penalties for offenses violations.

- A.** Any person, association, corporation, organization or member, officer, agent or employee of any such entity who shall be found by a court of competent jurisdiction to be in violation of any of the provisions of this chapter shall be ~~deemed~~ guilty of a misdemeanor and shall be subject to a fine of not less than \$250 nor more than ~~not to exceed~~ \$1,000 or a period of incarceration not to exceed one year, or both. Any person or entity found by the Bureau of Administrative Adjudication to have violated any of the provisions of this chapter shall likewise be subject to a monetary penalty of not less than \$250 nor more than \$1000.

- B. Any person, association, corporation, organization or member, officer, agent or employee of any such entity who shall demolish, alter, construct or permit a designated property to fall into a state of disrepair in violation of this chapter shall be required to restore said property and its site to its original appearance prior to the demolition, alteration, construction or other act which permitted the designated property to fall into a state of disrepair in violation of this chapter. The Town Attorney shall initiate an action in a court of competent jurisdiction to correct a violation of this chapter. Any civil ~~remedy action shall~~ remedy action shall be in addition to and not in lieu of any criminal prosecution ~~and penalty or any proceeding before the Bureau of Administrative Adjudication.~~

**CHAPTER 145  
BAMBOO**

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§ 145-7 **Violations and penalties.**

- A. Violations. Any property owner who violates any of the provisions of this chapter shall be guilty of a ~~violation thereof an offense~~. Each and every day that a violation of this chapter shall exist shall constitute a separate ~~violation of this chapter offense~~.
- B. Penalties. An offense based on a violation of any provision of this chapter shall be punishable by a fine of not less than \$100 and not more than \$500, for each violation. Any person found by the Bureau of Administrative Adjudication to have violated any provision of this chapter shall likewise be subject to a monetary penalty of not less than \$100 and not more than \$500 for each violation.

**CHAPTER 146  
LITTERING**

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§ 146-5 Enforcement.

[Amended 4-7-1976 by L.L. No. 11-1976]

The Commissioner of Environmental Control of the Town of Babylon is hereby authorized to enforce this chapter. The Commissioner of Environmental Control or any Deputy Commissioner or other Town employee authorized by said Commissioner may ~~issue summonses returnable~~ commence proceedings before any court having the jurisdiction ~~for to adjudicate~~ the violation of any provision of this chapter, including the Bureau of Administrative Adjudication.

§ 146-6 **Penalties for offenses violations.**

[Amended 11-6-2008 by L.L. No. 27-2008]

Any person who shall violate any of the provisions of this chapter or who shall fail to comply therewith or with any of the requirements thereof shall be guilty of a ~~violation an offense~~ and, upon conviction thereof, a fine of not less than \$250 nor more than \$1,000 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, ~~shall be guilty of a violation and, upon conviction,~~ a fine of not less than \$1,000 nor more than \$2,500 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, ~~shall be guilty of a violation and~~ a fine of not less than \$2,500 nor more than \$5,000 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both. Any person found by the Bureau of Administrative Adjudication to have violated any provision of this chapter shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

**CHAPTER 149  
MEMORIAL AND INDEPENDENCE DAY SALES**

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§ 149-4 **Offenses Violations**

Any persons, associations, partnerships or corporations violating any provision of §§ 149-1 through 149-3 shall be guilty of an offense punishable as provided in § 1-15 and shall be subject to civil penalties as provided in §§ 1-16 and 1-17 of this Code.

**CHAPTER 153  
MULTIPLE DWELLINGS  
ARTICLE I  
RENTAL UNITS**

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§ 153-7 **Penalties for offenses violations.**

[Amended 7-16-2002 by L.L. No. 17-2002; 10-7-2003 by L.L. No. 23-2003; 10-6-2009 by L.L. No. 20-2009; 7-15-2014 by L.L. No. 9-2014]

A first offense based on a violation of this article shall be punishable by a fine of not less than \$500 and not more than \$1,000 and/or imprisonment for a period not to exceed 15 days, or both. A second offense based on a violation of this article committed within five years of a previous conviction of the first offense shall be punishable as a misdemeanor and by a fine of not less than \$1,000 and not more than \$1,500 and/or imprisonment for a period not to exceed 15 days, or both. A third or subsequent offense based on a violation of this article committed within five years of the second conviction of the first offense shall be punishable as a misdemeanor and by a fine of not less than \$1,500 and not more than \$2,500 and/or imprisonment for a period not to exceed 15 days, or both. Any person or entity found by the Bureau of Administrative Adjudication to have violated this article shall

likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

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## ARTICLE II ACCESSORY APARTMENTS IN ONE-FAMILY DWELLINGS

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### § 153-21 **Penalties for offenses violations.**

[Amended 7-16-2002 by L.L. No. 17-2002; 9-2-2003 by L.L. No. 17-2003; 10-7-2003 by L.L. No. 23-2003]

A first offense based on a violation of this article shall be punishable by a fine of not less than \$250 and not more than \$1,000 imposed or imprisonment for a period not to exceed six months, or both. A second offense based on a violation of this article committed within five years of a ~~previous conviction~~ of the first offense shall be punishable as a misdemeanor and by a fine of not less than \$1,000 and not more than \$1,500 or imprisonment for a period not to exceed one year, or both. A third or subsequent offense based on a violation of this article committed within five years of the ~~second conviction of the first offense~~ shall be punishable as a misdemeanor and by a fine of not less than \$1,500 and not more than \$2,500 or imprisonment for a period not to exceed one year, or both. Any person or entity found by the Bureau of Administrative Adjudication to have violated this article shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

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## ARTICLE III NON-OWNER OCCUPIED DWELLING UNITS

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### § 153-30 **Penalties for offenses violations.**

[Added 7-12-2011 by L.L. No. 14-2011; amended 7-15-2014 by L.L. No. 10-2014]

- A. Any person who shall allow, permit or suffer the existence of more dwelling units than permitted by the last certificate of occupancy issued for said property, or the existence of an accessory apartment, without first obtaining and maintaining a valid accessory apartment permit, on any property within the Town of Babylon, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$5,000 and not more than \$10,000 or imprisonment for a period not to exceed one year, or both.
- B. Upon application of the Town Attorney's office (Special Assistant District Attorney), any offense based on a violation of this chapter may be reduced to an “attempted violation offense” as established by the New York State Penal Law § 110.00. Penalties for the reduced charge of attempt shall be:
  - (1) Any person who shall attempt to violate any of § 153-28A of this article shall be guilty of ~~a violation~~ an offense and, upon conviction thereof, a fine of not less than \$2,500 nor more than \$5,000 must be imposed and a term of imprisonment for a period not to exceed 30 days may be imposed, or both.
  - (2) Any person who shall attempt to violate any of § 153-28B of this article shall be guilty of ~~a violation~~ an offense and, upon conviction thereof, a fine of not less than \$500 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 30 days may be imposed, or both.
- C. Any person found by the Bureau of Administrative Adjudication to have violated this article shall be subject to a monetary penalty of not less than \$500 nor more than \$10,000.

## CHAPTER 156 NOISE

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### § 156-11 **Penalty for violation of sound level correction order.**

Any person who violates an order issued pursuant to § 156-10 shall be guilty of an offense and, upon conviction, subject to a fine of not less than \$100 and for each day of violation be fined not more than \$500. Each day the violation continues shall be deemed a separate offense. Any person found by the Bureau of Administrative Adjudication to have violated such an order shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for an offense or continuing offense.

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### § 156-18 **Issuance of summons Enforcement**

Except where a person is acting in good faith to comply with an abatement order issued pursuant to § 156-17, violation of any provision of this chapter shall be cause for ~~a summons to be issued~~ the commencement of criminal or civil proceedings and shall be punishable by a fine or civil penalties as provided in §§ 1-15 - 1-17 of this Code.

**CHAPTER 157  
NOTICE AND CERTIFICATES OF ASSESSMENT**

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**§ 157-7 Penalties for offenses violations.**

It shall be unlawful for any person, within the provisions of this chapter, to fail to post the notice as required by § 157-3 hereof, to change any of the information contained on the notice or to fail to post a notice as required by § 157-5 hereof. The Building Inspector shall enforce the provisions of this chapter and, from time to time, shall cause inspections to be made of model houses in order to determine that notices are posted in conformance with this chapter. A violation of this chapter shall be ~~a violation an offense~~ punishable by a fine of not less than \$100 nor more than \$500 for the first such ~~violation offense~~ and in a sum not less than \$250 nor more than ~~exceeding~~ \$1,000 for any subsequent ~~violation offense~~; ~~said penalties to be recoverable in a civil action in the name of the Town of Babylon as damages.~~ Each day that a violation continues shall be deemed a separate offense. ~~Any person found by the Bureau of Administrative Adjudication to have violated the provisions of this chapter shall likewise be subject to a monetary penalty in an amount within the range of fines set forth herein for a first offense, subsequent offenses and continuing offenses.~~ Except as provided otherwise by law, such a violation shall not be a crime, and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness or otherwise of any person convicted thereof.

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**CHAPTER 162  
PAWNBROKERS AND SECOND-HAND DEALERS**

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**§ 162-16 Penalties for offenses violations.**

- A. Any person who violates the provisions of § 162-10 of this chapter shall be guilty of a Class A misdemeanor, punishable by a fine not less than \$250 nor more than ~~exceeding~~ \$2,500 or by imprisonment for a period not exceeding one year, or by both such fine and imprisonment.
- B. Any person who violates the provisions of any other section of this chapter shall be guilty of ~~a violation an offense~~, punishable by a fine not less than \$100 nor more than ~~exceeding~~ \$1,000 or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment. Each day's violation shall constitute a separate and distinct offense against this chapter.
- C. ~~Any person found by the Bureau of Administrative Adjudication to have violated the provisions of this chapter shall likewise be subject to a monetary penalty in an amount with the range of fines set forth in subsections A and B for the respective violations referenced therein.~~
- D. ~~€.~~ In addition to the penalties provided above, any offense against the provisions of this chapter shall subject the person committing the offense to a civil penalty in the amount of \$1,000 for each day that the offense shall continue, collectible by and in the name of the Town of Babylon ~~by way of a civil action brought in a court of competent jurisdiction.~~
- E. ~~Đ.~~ A conviction against a licensed dealer for any offense against the provisions of this chapter, ~~or a finding of liability by the Bureau of Administrative Adjudication,~~ shall ~~constitute and effect an immediate forfeiture be grounds for the revocation of his license.~~

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**CHAPTER 165  
PEACE AND GOOD ORDER  
ARTICLE II  
EXPOSURE OF A PERSON**

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**§ 165-4.1 Penalties for offenses violations.**

[Amended 11-6-2008 by L.L. No. 28-2008]

Any person found guilty of violating this article shall be guilty of a Class B misdemeanor and, upon conviction thereof, a fine of not less than \$250 nor more than \$1,000 must be imposed or a term of imprisonment for a period not to exceed 90 days may be imposed, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, shall be guilty of a Class B misdemeanor and, upon conviction, a fine of not less than \$1,000 nor more than \$2,500 must be imposed or a term of imprisonment for a period not to exceed 90 days may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, shall be guilty of a Class B misdemeanor and a fine of not less than \$2,500 nor more than \$5,000 must be imposed or a term of imprisonment for a period not to exceed 90 days may be imposed, or both. Any person found by the Bureau of Administrative Adjudication to have violated this article shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

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**ARTICLE III  
PUBLIC NUISANCES**

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§ 165-9. Order for action.

- A. The Town Board at said public hearing or an emergency public hearing as authorized by § 62 of the Town Law shall consider such report of prohibited conduct as well as any other information it deems relevant in determining if the location is to be deemed a “public nuisance” as defined in § 165-6 of this article. The Town Board must also consider whether or not the complainant or person reporting the prohibited conduct is a victim of domestic abuse.
- B. If the Town Board decides said location is in fact a public nuisance ...
- C. Any person who enters or remains in any structure, building or premises, which has been boarded up pursuant to Subsection B of this section during the period prescribed by Subsection B, shall be guilty of a misdemeanor, and upon conviction thereof, a fine of not less than \$2,500 nor more than \$7,500 must be imposed and a term of imprisonment for a period not to exceed one year may be imposed, or both. Any person found by the Bureau of Administrative Adjudication to have entered or remained in such a boarded up structure shall be subject to a monetary penalty of not less than \$2,500 nor more than \$7,500. Knowledge that the structure, building or premises had been boarded up pursuant to Subsection B of this section is not an element of this violation, and said violation shall be one of strict liability.

§ 165-10 **Penalties for offenses violations.**

- A. The Town Board finds that the proliferation of violations of the provisions of the Town Code of the Town of Babylon has caused a serious threat to the safety and welfare of the residents of the Town and has eroded the quality of life of all who live and work in the Town. The Town Board, therefore, finds it necessary and proper to increase the fines and related penalties for violations of the Town Code. It is further the intent of the Town Board to exercise its authority as provided by law with particular reference to its authority pursuant to Municipal Home Rule Law § 10(4)(b) and Town Law § 135, and the Town Board hereby supersedes any inconsistent provisions of state law.
- B. It shall be unlawful for anyone to own or lease any building, residence, premises, structure or place which is being used as a “public nuisance” as defined in this article.
- C. ~~Upon conviction of any~~ An offense based on a violation of this section shall be a Class A misdemeanor, and upon conviction thereof, a fine of not less than \$2,500 nor more than \$5,000 for each day of said offense must be imposed by the court and/or up to one year imprisonment may be imposed. Any person found by the Bureau of Administrative Adjudication to have violated this section shall likewise be subject to a monetary penalty of not less than \$2,500 nor more than \$5,000.

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**ARTICLE IV  
ADULT USES AND VIOLATIVE PUBLIC CONDUCT AS PUBLIC NUISANCES**

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§ 165-17 **Penalties for offenses violations.**

[Amended 10-7-2003 by L.L. No. 25-2003]

- A. The Town Board finds that the proliferation of violations of the provisions of the Town Code of the Town of Babylon has caused a serious threat to the safety and welfare of the residents of the Town and has eroded the quality of life of all who live and work in the Town. The Town Board therefore finds it necessary and proper to increase the fines and related penalties for violations of the Town Code. It is further the intent of the Town Board to exercise its authority as provided by law with particular reference to its authority pursuant to Municipal Home Rule Law § 10(4)(b) and Town Law § 135, and the Town Board hereby supersedes any inconsistent provisions of state law.
- B. It shall be unlawful for anyone to own or lease any building, residence, premises, structure or place which is being used as a public nuisance as defined in this article.
- C. Upon conviction of an offense based on any violation of this section, a fine of not less than \$1,000 nor more than \$5,000 for each offense and/or up to 30 days' imprisonment must be imposed. Any person found by the Bureau of Administrative Adjudication to have violated this section shall likewise be subject to a monetary penalty of not less than \$1,000 nor more than \$5,000.

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**ARTICLE VI  
LOITERING FOR PURPOSES OF FACILITATING GANG ACTIVITY**

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§ 165-27 **Penalties for offenses violations.**

[Added 9-21-2004 by L.L. No. 28-2004]

Any person who ~~shall~~ violates § 165-26 shall be guilty of a Class A Misdemeanor, punishable by a fine of not less than \$250 nor more than \$1,000 which must be imposed and a term of imprisonment for a period not to exceed one year which may be imposed, or both, for a first offense; a fine of not less than \$1,000 nor more than \$2,500 which must be imposed and a term of imprisonment for a period not to exceed one year which may be imposed, or both, for a second offense committed within five

years of ~~a conviction~~ the first offense; and a fine of not less than \$2,500 nor more than \$5,000 which must be imposed and a term of imprisonment for a period not to exceed one year, or both, for a third or subsequent offense committed within five years of the first ~~conviction~~ offense. Any person found by the Bureau of Administrative Adjudication to have violated § 165-26 shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

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## ARTICLE VIII NUISANCE ABATEMENT

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### § 165-36 **Penalties for offenses violations.**

Any person who shall fail or refuse to obey an order of the Board to remedy a violation pursuant to this article, shall be guilty of a Class A misdemeanor punishable by a fine of not less than \$1,000 nor more than \$2,500 which must be imposed and a term of imprisonment for a period not to exceed one year which may be imposed, or both, for a first offense; a fine of not less than \$2,500 nor more than \$5,000 which must be imposed and a term of imprisonment for a period not to exceed one year which may be imposed, or both, for a second offense committed within five years of ~~a conviction~~ the first offense; and a fine of not less than \$5,000 nor more than \$7,500 which must be imposed and a term of imprisonment for a period not to exceed one year, or both, for a third or subsequent offense committed within five years of the first ~~conviction~~ offense. The mandatory minimum fine must be imposed, and there shall be no discretion in imposing the mandatory minimum fine, and each day that such violation continues shall constitute a separate offense hereunder. Any person found by the Bureau of Administrative Adjudication to have failed to obey an order of the Board to remedy a violation pursuant to this article shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

## CHAPTER 166 PERSONAL PROPERTY, SALE OF

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### § 166-5 **Penalties for offenses violations.**

A violation of this chapter shall be an offense punishable by a fine of not less than \$100 nor more than \$500 which must be imposed for conviction of a first offense; for a conviction of a second offense committed within a period of five years, a fine not less than \$500 nor more than \$1,000 must be imposed; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, a fine not less than \$1,000 nor more than \$2,500 must be imposed. Each day's continued violation shall constitute a separate additional ~~violation~~ offense. Any person found by the Bureau of Administrative Adjudication to have violated any provision of this chapter shall likewise be subject to a monetary penalty in an amount within the range of fines authorized herein for a first offense and subsequent offenses.

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## CHAPTER 170 PLUMBING

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### § 170-23 **Penalties for offenses violation; parties responsible**

- A. Every person who shall violate the provisions of this Plumbing Code or regulations adopted thereunder shall be ~~punished~~ subject to criminal and civil penalties as provided in §§ 1-15 through 1-17 of this Code for every such offense violation and, in addition thereto, shall be guilty of a misdemeanor.
- B. The owner of a building, structure or premises, or part thereof, where anything in violation of this chapter shall be placed or shall exist and any architect, builder, contractor, agent, person or corporation employed in connection therewith which shall have caused or permitted or assisted in the commission of any violation of this Code or fails to comply with any provision or requirement of this Code shall each be ~~guilty of a separate and individual offense and, upon conviction thereof, shall be punished as herein provided~~ separately and individually subject to applicable criminal and civil penalties as provided in subsection A.

[Amended 9-13-2006 by L.L. No. 30-2006]

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## CHAPTER 173 PUBLIC ASSEMBLY PLACES

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### § 173-6 **Penalties for offenses violations.**

- A. Any person who shall violate any provision of this chapter or any of the rules and regulations adopted by the Building Inspector pursuant thereto shall be guilty of ~~a violation~~ an offense punishable by a fine of not less than \$100 nor more than ~~not exceeding~~ \$500 or imprisonment for a period not to exceed 15 days, or both. Each day's continued violation shall constitute a separate ~~violation~~ offense.

- ~~B. For the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of said sections shall be deemed misdemeanors, and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.~~
- B. Any person found by the Bureau of Administrative Adjudication to have violated the provisions of this chapter or any rule or regulation adopted thereunder shall likewise be subject to a monetary penalty of not less than \$100 nor more than \$500.

**CHAPTER 180  
TAXICABS AND VEHICLES FOR HIRE  
ARTICLE VIII  
FEES, PENALTIES AND MISCELLANEOUS PROVISIONS**

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§ 180-36 **Penalties for offenses violations.**

- A. Any person or persons, associations, corporations or entities ~~committing an offense against that violate~~ this chapter or any section or provision thereof ~~is are~~ guilty of a violation an offense punishable by a fine as indicated hereinbelow or imprisonment for a period not to exceed 15 days, or by both fine and imprisonment, and each day's continued violation shall constitute a separate offense:
  - (1) First offense: not less than \$250 nor more than \$2,500.
  - (2) Second offense committed within five years of the first offense: not less than \$500 nor more than \$5,000.
  - (3) Third or subsequent offense committed within five years of the first offense: not less than \$1,000 nor more than \$10,000 and, additionally, in the case of vehicle operators, revocation of permit for a minimum of one year, after which reinstatement shall be based on a complete new application process, including fingerprints.
- B. Any person or entity found by the Bureau of Administrative Adjudication to have violated this chapter is likewise subject to a monetary penalty in an amount within the range of fines authorized in subsection A for a first offense and subsequent offenses, and is likewise subject to permit revocation after a third violation as set forth therein, whether adjudicated in a criminal proceeding or in a proceeding before the Bureau of Administrative Adjudication.
- C. ~~B.~~ In addition to any other remedy provided by law, the Town may bring an injunction proceeding to enforce this chapter.
- D. ~~C.~~ Notwithstanding conviction for a violation hereunder and imposition of a fine and/or imprisonment therefor or any liability finding by the Bureau of Administrative Adjudication, any license, certificate or permit holder shall also be liable to suspension, revocation or future disapproval of any license, certificate or permit held by him or her in his or her own or any business or corporate name for any offense against this chapter. The provisions contained in this chapter regarding disapproval, suspension and revocation shall be controlling to effectuate any disapproval, suspension or revocation provided for herein.

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**CHAPTER 183  
SHELLFISH**

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§ 183-30 **Penalties for offenses violations.**

[Amended 1-6-1981 by Res. No. 19]

- A. Taking, or dealing without permit. Any person convicted of taking shellfish without a permit, as required by § 183-2, or dealing with shellfish for commercial purposes without a permit, as required by § 183-19, shall be guilty of a ~~violation and an offense~~ punishable as follows:
  - (1) ~~For a first conviction~~ by a fine not less than \$200 nor more than \$500 for a first offense.
  - (2) ~~For a second conviction or subsequent conviction within five years of a previous conviction for a like offense,~~ by a fine of not less than \$500 nor more than \$1,000 for a second or subsequent offense committed within five years of the first offense.
- B. Taking on Sunday. Any person convicted of taking shellfish on Sunday in violation of § 183-12D shall be guilty of a ~~violation and an offense~~ punishable as follows:
  - (1) ~~For a first conviction,~~ by a fine of not less than \$50 nor more than \$250 for a first offense.
  - (2) ~~For a second conviction or subsequent conviction within five years of a previous conviction for a like offense,~~ by a fine of not less than \$250 nor more than \$500 for a second or subsequent offense committed within five years of the first offense.



- C. Taking from uncertified or management areas. Any person convicted of taking shellfish from uncertified areas in violation of § 183-12A or violating prohibitions, restrictions or regulations with regard to taking shellfish from a management area in violation of § 183-18A or violating § 183-18B, shall be guilty of ~~the following~~ an offense punishable as follows:
- (1) ~~A violation for a first conviction, and~~ A first offense is punishable by a fine of not less than \$250 nor more than \$500 or by imprisonment for not more than 15 days, or by both such fine and imprisonment.
  - (2) ~~A misdemeanor for a second conviction or subsequent conviction~~ A second or subsequent offense committed within five years of ~~a previous conviction for a like~~ the first offense ~~and is a misdemeanor~~ is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than one year, or by both such fine and imprisonment.
  - (3) During the period December 15 through March 15 of each year, ~~a violation an offense will be~~ is punishable by a fine not ~~exceeding less than \$100 nor more than~~ \$250. However, such penalty will be suspended if a winter conditional opening is authorized by the New York State Department of Environmental Conservation.
- D. Taking at night. Any person convicted of taking shellfish from Town lands under water during the night in violation of § 183-12B shall be guilty of ~~the following~~ an offense punishable as follows:
- (1) ~~A violation for a first conviction, A first offense is~~ punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment for not more than 15 days, or by both such fine and imprisonment.
  - (2) ~~A misdemeanor for a second conviction or subsequent conviction~~ second or subsequent offense committed within five years of ~~a previous conviction for a like~~ the first offense ~~and punishable is a misdemeanor~~ is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than one year, or by both such fine and imprisonment.
- E. Violation of size restrictions. Any person convicted of taking, buying, selling or possessing of shellfish of less than legal size in violation of § 183-13 or of violating § 183-10B shall be guilty of ~~the following~~ an offense punishable as follows:
- (1) ~~A violation for a first conviction, and~~ A first offense is punishable by a fine of not less than \$300 nor more than \$500 or by imprisonment for not more than 15 days, or by both such fine and imprisonment.
  - (2) ~~A misdemeanor for a second conviction or subsequent conviction~~ second or subsequent offense committed within five years of ~~a previous conviction for a like~~ the first offense ~~and is a misdemeanor~~ is a misdemeanor punishable by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for not less than six months nor more than one year, or by both such fine and imprisonment.
- F. General penalty. Any person convicted of violating any provisions of this chapter, except as otherwise provided in § 183-30A through E, shall be guilty of ~~the following~~ an offense punishable as follows:
- (1) ~~A violation for a first conviction, A first offense is~~ punishable by a fine of not less than \$50 nor more than \$200.
  - (2) ~~A misdemeanor for a second conviction or subsequent conviction~~ A second or subsequent offense committed within five years of ~~a previous conviction for a like~~ the first offense ~~is a misdemeanor~~ is a misdemeanor punishable by a fine of not less than \$200 nor more than \$400 or by imprisonment for not less than three months nor more than six months, or by both such fine and imprisonment.
- G. Any person or entity found by the Bureau of Administrative Adjudication to have violated this chapter shall likewise be subject to a monetary penalty in an amount within the range of fines authorized in subsections A, B, C, D, E and F for the respective violations referenced therein for a first offense and subsequent offenses.
- H. ~~G.~~ Suspension, revocation of permit. The Town Clerk, upon recommendation of the Commissioner of Environmental Control, may suspend or revoke any permit issued under this chapter to any person convicted of one or more violations of this chapter or to any person convicted of a crime, or to any partnership where any partner has been convicted of one or more violations of this chapter or convicted of a crime, or to any corporation if any person having a financial interest in the corporation is convicted of one or more violations of this chapter or convicted of a crime. The Town Clerk may likewise suspend or revoke any permit issued under this chapter to any person or entity that was found to have violated this chapter by the Bureau of Administrative Adjudication.

## CHAPTER 189

### STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

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§ 189-9 **Construction inspection; guarantees; report; enforcement and penalties for offenses-violations**

A.

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G. Violations.

[Amended 12-21-2016 by L.L. No. 19-2016]

- (1) Any person who shall violate any of the provisions of this chapter or who shall fail to comply therewith or with any of the requirements thereof or who shall build or alter or use any building or land in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of ~~a violation~~ an offense, and upon conviction thereof, a fine of not less than \$250 nor more than \$1,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, ~~shall be guilty of a violation~~ an offense, and ~~upon conviction~~ a fine not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, shall be guilty of a misdemeanor and a fine not less than \$2,500 nor more than \$5,000 must be imposed and a term of imprisonment for a period not to exceed six months, or both. Each day's continued violation shall constitute a separate additional ~~violation~~ offense.
- (2) Upon application of the Town Attorney's office an offense based on a violation of this chapter may be reduced to an "attempted ~~violation~~ offense" as established by the New York State Penal Law § 110. Penalties for the reduced charge of attempt shall be:
  - (c) Any person who shall attempt to violate any of the provisions of this chapter shall be guilty of ~~a violation~~ an offense, and upon conviction thereof, a fine of not less than \$100 nor more than \$500 must be imposed and a term of imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, a fine not less than \$500 nor more than \$1,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, a fine not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both. Each day's continued violation shall constitute a separate additional ~~violation~~ offense.
- (3) Any person found by the Bureau of Administrative Adjudication to have violated any provision of this chapter shall be subject to a monetary penalty of not less than \$100 nor more than \$1,000 for a first violation, not less than \$500 nor more than \$2,500 for a second violation committed within five years of the first violation, and not less than \$1,000 nor more than \$5,000 for a third or subsequent violation, all of which were committed within a period of five years.

**H. Stop work orders. \*\*\***

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**CHAPTER 190  
STORM SEWERS: ILLICIT DISCHARGES, ACTIVITIES AND CONNECTIONS**

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**§ 190-16 Penalties for offenses violations.**  
[Amended 12-21-2016 by L.L. No. 20-2016]

- A.** Any person who shall violate any of the provisions of this chapter shall be guilty of ~~a violation~~ an offense and, upon conviction thereof, a fine of not less than \$350 nor more than \$1,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, shall be guilty of a misdemeanor, and upon conviction a fine of not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed six months may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, shall be guilty of a misdemeanor and a fine of not less than \$2,500 nor more than \$5,000 must be imposed and a term of imprisonment for a period not to exceed six months, or both. Each day's continued violation shall constitute a separate additional ~~violation~~ offense. ~~However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.~~
- B.** Upon application to the Town Attorney or his or her designee, an offense based on a violation of this chapter may be reduced to an attempted ~~violation~~ offense as established by the New York State Penal Law § 110. Penalties for the reduced charge of attempt shall be:
  - (1) Any person who shall attempt to violate any of the provisions of this chapter shall be guilty of ~~a violation~~ an offense and, upon conviction thereof, a fine of not less than \$100 nor more than \$500 must be imposed and a term of imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, a fine of not less than \$500 nor more than \$1,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, a fine of not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both. Each day's continued violation shall constitute a separate additional ~~violation~~ offense.
- C.** Any person found by the Bureau of Administrative Adjudication to have violated any of the provisions of this chapter shall be subject to a monetary penalty of not less than \$100 nor more than \$1,000 for a first violation, not less than \$500 nor more than \$2,500 for a second violation committed within five years of the first violation, and not less than

\$1,000 nor more than \$5,000 for a third or subsequent violation, all of which were committed within a period of five years.

**CHAPTER 191  
STREETS AND SIDEWALKS  
ARTICLE I  
USE RESTRICTIONS**

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**§ 191-4.5 Penalties for offenses violations.**

[Added 5-18-2020 by L.L. No. 8-2020]

Any person who violates this article or fails to comply with any of its requirements shall, ~~upon conviction thereof,~~ be guilty of a ~~violation an offense punishable by and be subject to~~ a fine of not less than \$250 nor more than \$1,000. Any person found by the Bureau of Administrative Adjudication to have violated this article shall likewise be subject to a monetary penalty of not less than \$250 nor more than \$1,000.

**ARTICLE II  
STREET EXCAVATIONS**

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**§ 191-14 Penalties for offenses violations.**

[Added 10-19-1971]

Any ~~person or entity violating violation of~~ any provision of this article shall ~~constitute a violation of the Code of the Town of Babylon in accordance with~~ be subject to the criminal and civil penalties provided in §§ 1-15 through 1-17 ~~thereof of this Code.~~

\*\*\*

**ARTICLE III  
SIDEWALK MAINTENANCE**

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**§ 191-27 Penalties for offenses violations.**

~~The violation of~~ Any person or entity violating any provision of this article shall ~~constitute an offense punishable pursuant to be subject to the criminal and civil penalties provided in~~ §§ 1-15 through 1-17 of this Code.

**ARTICLE IV  
UTILITY POLES ON TOWN ROAD RIGHTS OF WAY**

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**§ 191-27 Penalties for offenses violations.**

- A. Any public utility that violates this article shall be subject to a civil penalty not to exceed \$250 for each such violation. Each day that the violation continues shall be deemed a separate violation.
- B. If a public utility violates the provisions of this article and fails to remove its plant from a damaged pole in accordance with the provisions of this article, the Town Attorney, upon the request of the Department, may commence an action in the name of the Town in a court of competent jurisdiction for necessary relief, which may include the imposition of civil penalties as authorized by this article, an order to remove the plant from a damaged utility pole and/or to remove the damaged pole, the recovery of costs of the action and such other remedies as may be necessary to prevent or enjoin a dangerous condition from existing in a Town road or right-of-way.

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**CHAPTER 198  
TOWING  
ARTICLE I  
LICENSING AND REGULATION OF TOW TRUCKS**

\*\*\*

**§ 198-40 Penalties for offenses violations.**

[Amended 5-25-2010 by L.L. No. 4-2010]

- A. Any person who shall violate any of the provisions of this article shall be guilty of a Class A misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$5,000 and not more than \$10,000 or imprisonment for a period not to exceed one year, or both.
- B. Upon application of the Town Attorney's office (Special Prosecutor), any offense based on a violation of this article may be reduced to an "attempted violation offense" as established by the New York State Penal Law § 110.00. Penalties for the reduced charge of attempt shall be:
  - (1) Any person who shall attempt to violate any of the provisions of this article shall be guilty of a ~~violation an offense~~ and, upon conviction thereof, a fine of not less than \$2,000 nor more than \$5,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both.
- C. Any person found by the Bureau of Administrative Adjudication to have violated any of the provisions of this article shall be subject to a monetary penalty of not less than \$2,000 nor more than \$10,000.

**ARTICLE III  
PRIVATE ENFORCEMENT**

\*\*\*

§ 198-54 **Penalties for offenses violations; enforcement.**

- A. No charge shall be imposed for the towing of a vehicle when any person has committed a violation of Chapter 198 of this Code with respect to such vehicle, and any such unlawful charge shall be reimbursed by any person liable for a violation of this article.
- B. Any person who violates any provision of this article ~~is guilty of an offense punishable shall be punished~~ by a fine of not less than \$500 nor more than \$1,000. Any person found by the Bureau of Administrative Adjudication to have violated this article shall likewise be subject to a monetary penalty of not less than \$500 nor more than \$1,000.
- C. In addition to the foregoing, the provisions of § 198-37, § 198-38 and § 199-39 shall apply to any licensee violating the provisions of this article.
- D. Authorized employees of the Department of Planning and Development, Division of Public Safety, or any fire marshals, assistant fire marshals or police officers, shall have the power to enforce the provisions of this article and any rules promulgated pursuant thereto.

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**CHAPTER 209  
VEHICLES, OFF ROAD**

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§ 209-4 **Penalties for offenses violations.**

[Amended 12-20-2006 by L.L. No. 43-2006]

- A. A person or business entity who commits any acts in violation of this chapter shall be deemed to have committed an offense ~~against this chapter~~ and shall, upon conviction thereof, be subject to a fine ~~or penalty~~ of not less than \$100 and not more than \$500, or imprisonment for a period not exceeding 10 days, or both a fine and imprisonment, for a first offense; and for a second ~~or subsequent~~ offense occurring ~~within one year~~ five years of the ~~date of the~~ first offense, a fine or penalty of not less than \$500 nor more than \$1,000, or imprisonment for a period not exceeding 20 days, or both a fine and imprisonment.
- B. Any person or entity found by the Bureau of Administrative Adjudication to have violated this chapter shall likewise be subject to a monetary penalty within the range of fines authorized in subsection A for a first offense and subsequent offenses.
- C. ~~B.~~ Any fine ~~or monetary penalty~~ imposed under this section shall be in addition to and distinct from the redemption fee, and the payment of a fine imposed by the court cannot be applied to or credited against the payment of said redemption fee, or vice versa.

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**CHAPTER 211  
WATER**

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§ 211-5 **Penalties for offenses violations.**

- A. A violation of the provisions of § 211-4 of this article is a misdemeanor punishable by a fine of not less than \$250 and nor more than ~~not to exceed~~ \$1,000 or by imprisonment not exceeding six months, or by both such fine and imprisonment. Any person found by the Bureau of Administrative Adjudication to have violated this article is likewise subject to a monetary penalty of not less than \$250 nor more than \$500.
- B. In lieu of, or in addition to, ~~such fine and imprisonment, or both,~~ the foregoing, each such violation shall be subject to a civil penalty, not exceeding \$1,000 for any one case, to be recovered in an action or proceeding brought by the Town Attorney of the Town of Babylon in a court of competent jurisdiction. Each day of a continuing violation shall be subject to a separate such fine, imprisonment or civil penalty.
- C. ~~B.~~ The Town Attorney may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with this article or restrain by injunction any violation of this article, notwithstanding the provisions of § 211-5A hereof for a penalty or other punishment.
- D. ~~C.~~ Where any violation of this article causes expense to the Town, such violation may also be punishable by a civil suit against the violator, brought by the Town Attorney of the Town of Babylon in the name of the Town in a court of competent jurisdiction, to recover such additional cost.

**CHAPTER 213  
ZONING  
ARTICLE I  
GENERAL PROVISIONS**

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**§ 213-8 Penalties for offenses violations.**

[Amended 5-20-2003 by L.L. No. 7-2003; 4-29-2008 by L.L. No. 13-2008; 7-15-2008 by L.L. No. 17-2008]

Legislative intent. The Town Board finds that the proliferation of violations of the provisions of the Town Code of the Town of Babylon and of conditions of or imposed on zoning-related grants and/or approvals by the Town Board, Planning Board and Zoning Board of Appeals has caused a serious threat to the safety and welfare of the residents of the Town and has eroded the quality of life of all who live and work in the Town. The Town Board therefore finds it necessary and proper to increase the fines and related penalties for violations of the Town Code. It is the further intent of the Town Board to exercise its authority as provided by law with particular reference to its authority pursuant to Municipal Home Rule Law § 135, and the Town Board hereby supersedes any inconsistent provisions of state law.

- A. Any person who shall violate any of the provisions of this chapter or who shall fail to comply therewith or with any of the requirements thereof or who shall build or alter or use any building or land in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of ~~a violation~~ an offense, and upon conviction thereof, a fine of not less than \$250 nor more than \$1,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both, for ~~conviction of~~ a first offense; for conviction of a second offense, both of which were committed within a period of five years, ~~shall be guilty of a violation, and upon conviction~~ a fine not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, ~~or both~~; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, ~~shall be guilty of a violation, and~~ a fine not less than \$2,500 nor more than \$5,000 must be imposed and a term of imprisonment for a period not exceed 15 days ~~may be imposed, or both~~. Each day's continued violation shall constitute a separate additional ~~violation~~ offense.
- B. Upon application of the Town Attorney's office, an offense based on a violation of this chapter may be reduced to an "attempted ~~violation~~ offense" as established by the New York State Penal Law § 110.00. Penalties for the reduced charge of attempt shall be:
- (1) Any person who shall attempt to violate any of the provisions of this chapter shall be guilty of ~~a violation~~ an offense, and upon conviction thereof, a fine of not less than \$100 nor more than \$500 must be imposed and a term of imprisonment for a period not to exceed 15 days ~~may be imposed~~, or both, for ~~conviction of~~ a first offense; for conviction of a second offense, both of which were committed within a period of five years, a fine of not less than \$500 nor more than \$1,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, a fine of not less than \$1,000 nor more than \$2,500 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both. Each day's continued violation shall constitute a separate additional ~~violation~~ offense. [Amended 1-25-2011 by L.L. No. 5-2011]
- C. Notwithstanding anything in § 213-8A and B, any person who shall allow, permit or suffer the existence of a rooming house on any property within the Town of Babylon shall be guilty of a Class A misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$5,000 and not more than \$10,000 or imprisonment for a period not to exceed one year, or both. [Added 4-22-2009 by L.L. No. 8-2009]
- (1) Upon application of the Town Attorney's office (Special Assistant District Attorney), an offense based on a violation of this chapter may be reduced to an attempted-~~violation~~ offense as established by the New York State Penal Law § 110.00. Penalties for the reduced charge of attempt shall be:
- (a) Any person who shall attempt to violate any of § 213-62A, 213-75.3A, 213-77A or 213-92A of this article shall be guilty of ~~a violation~~ an offense and, upon conviction thereof, a fine of not less than \$2,000 nor more than \$5,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both.
- D. Any person found by the Bureau of Administrative Adjudication to have violated this chapter shall be subject to a monetary penalty of not less than \$100 nor more than \$1,000 for a first violation, not less than \$500 nor more than \$2,500 for a second violation committed within five years of the first violation, and not less than \$1,000 nor more than \$5,000 for a third or subsequent violation, all of which were committed within a period of five years.

**§ 213-9 Parties responsible for offenses.**

[Amended 9-13-2006 by L.L. No. 31-2006]

No owner or lessee or person having possession and control of a premises or any part thereof shall cause or permit any violation of this chapter to exist or fail to comply with the requirements of this chapter, and any architect, builder, contractor, agent, person, firm or corporation which shall have caused or permitted or assisted in the commission of any violation of this Code or fails to comply with any provision or requirement of this Code shall each be guilty of a separate and individual offense and, upon conviction thereof or upon a determination of liability by the Bureau of Administrative Adjudication, shall be punished as herein provided.

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**ARTICLE XX  
MOBILE DWELLINGS**

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**§ 213-262 Penalties for offenses violations.**

Any ~~violation of person or entity violating~~ this article shall be deemed to be an offense punishable as subject to the criminal and civil penalties provided in §§ 1-15 through 1-17 of Chapter 1, General Provisions, of this Code, said penalties to be in addition to the suspension or revocation of any permit issued under the provisions of this article.

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**ARTICLE XXII  
TRANSFER STATIONS, SCRAP METAL PROCESSING AND  
RECYCLED MATERIALS MANAGEMENT FACILITIES**

\*\*\*

**§ 213-285.1 Penalties for offenses violations.**

- A. Any person, owner, lessee, occupant, or entity in charge who allows, permits or suffers the existence of a transfer station, recycled materials management facility or a scrap metal processing facility, as defined in § 213-277, without a license within the Town of Babylon shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$5,000 and not more than \$10,000 or imprisonment for a period not to exceed one year, or both.
- B. In the sole discretion of the Town Attorney, any offense based on a violation of this article may be reduced to an "attempted ~~violation~~ offense" as established by the New York State Penal Law § 110.00.
- C. Any person, entity or firm who shall attempt to violate any provision of this article shall be guilty of ~~a violation an~~ offense, and, upon conviction thereof, a fine of not less than \$2,500 nor more than \$5,000 must be imposed and a term of imprisonment for a period not to exceed 15 days may be imposed, or both.
- D. Any person found by the Bureau of Administrative Adjudication to have violated this article shall be subject to a monetary penalty of not less than \$2,500 nor more than \$10,000.

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**ARTICLE XXV  
PIP-1 PLANNED INDUSTRIAL PARK DISTRICT-1**

[Added 11-8-2006 by Res. No. 9]

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**§ 213-345 Penalties for offenses violations.**

- A. Unless otherwise provided herein, any person who fails or neglects to comply with any section of this article shall be guilty of ~~a violation an~~ offense and, upon conviction thereof, shall be punishable by a fine not less than \$100 nor more than exceeding \$250 or imprisonment for a period not to exceed 15 days, or both such fine and imprisonment.
- B. Each day's continued violation shall constitute a separate ~~violation~~ offense.
- C. Civil penalties, where imposed in a specific ordinance pursuant to the laws of the State of New York, shall be in addition to any fine and/or imprisonment provided for in Subsections A and B of this section. In addition, any person found by the Bureau of Administrative Adjudication to have violated this article shall be subject to a monetary penalty of not less than \$100 nor more than \$250.
- D. In addition to the fine and/or imprisonment and civil penalties as provided for in Subsections A, B and C of this section, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any section of this article.

**ARTICLE XXVIII  
MORATORIUM ON ISSUANCE OF BUILDING PERMITS  
IN BARRIER AND OUTER BEACH AREAS**

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**§ 213-364 Penalties for offenses violations.**

Any person, firm, entity or corporation who shall construct, erect, enlarge or alter structurally any building or structure in violation of the provisions of this article shall be subject to the civil and criminal penalties set forth in ~~Article II, General Penalties,~~ of Chapter 1, General Provisions §§1-15 through 1-17 of this Code.

**ARTICLE XXX  
CLEARING OF LAND**

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**§ 213-375 Penalties for offenses violations.**

[Amended 10-7-2003 by L.L. No. 26-2003]

- A. Any person who shall violate any of the provisions of this chapter or any person who shall clear land in violation of a condition imposed by the Commissioner on a validly issued land clearing permit shall be guilty of ~~a violation an~~ offense.

- B. Any person convicted of an offense based on violating the provisions of this chapter must have a fine imposed in an amount fixed by the court of not less than \$250 nor more than \$1,500 or a term of imprisonment not to exceed 15 days, or both, for each violation thereof.
- C. Each day's continued violation shall constitute a separate ~~violation~~ offense.
- D. Civil penalties, where imposed in a specific ordinance pursuant to the laws of the State of New York, shall be in addition to any fine and/or imprisonment provided for in Subsections A, B and C of this section. In addition, any person found by the Bureau of Administrative Adjudication to have violated this article shall likewise be subject to a monetary penalty of not less than \$250 nor more than \$1500.
- E. In addition to the fine and/or imprisonment and civil penalties as provided for in Subsections A, B, C and D of this section, the Town Board may also take any of the following actions:
  - (1) Maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any section of this chapter.
  - (2) If conditions existing on the property violate the provisions of this chapter or violate any condition imposed on a land clearing permit, the Commissioner shall serve or cause to be served a written notice, either personally or by certified mail, return receipt requested, upon the owner, applicant, lessee or occupant of said property. Said notice shall contain substantially the following: the name of the owner, applicant, lessee or occupant of the property; the address or location of the property; the identification of the property as the same appears on the current assessment roll of the Town; a statement of the condition of the property as found on the inspection; a demand that the property be replanted or otherwise restored to the condition in which it existed prior to the clearing of the land on or before 30 days after the service or mailing of such notice; a statement that a failure or refusal to comply with the provisions of this chapter and the notice given pursuant thereto within the time specified will result in a duly authorized officer, agent or employee of the Town entering upon the property and replanting or restoring the property to the condition in which it existed prior to the clearing of the land; and that the cost and expense of such removal shall be certified to the Assessor of the Town and shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.
- F. Nothing contained herein shall require notice as a prerequisite to the ~~issuance of a summons~~ commencement of criminal or civil proceedings for a violation of any of the provisions of this chapter.

**ARTICLE XXXVII  
MOTOR VEHICLE DISMANTLERS**

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§ 213-375 **Penalties for offenses violations.**

- A. Any person, owner, lessee, occupant, or entity in charge who allows, permits or suffers the existence of a motor vehicle dismantling facility, as defined in § 213-435, without a license within the Town of Babylon shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not less than \$5,000 and not more than \$10,000 or imprisonment for a period not to exceed one year, or both.
- B. At the sole discretion of the Town Attorney, an offense based on a violation of this chapter may be reduced to an "attempted ~~violation~~ offense" as established by the New York State Penal Law § 110.00. Penalties for the reduced charge of attempt shall be:
  - (1) Any person, entity or firm who shall attempt to violate any provision of this chapter shall be guilty of a ~~violation~~ an offense and, upon conviction thereof, a fine of not less than \$2,500 nor more than \$5,000 must be imposed, and a term of imprisonment for a period not to exceed 15 days may be imposed, or both.
- C. Any person found by the Bureau of Administrative Adjudication to have violated this article shall be subject to a monetary penalty of not less than \$2500 nor more than \$10,000.

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Section 2. Severability

If any clause, sentence, paragraph, subdivision, section or other part of this local law shall for any reason be adjudged by any court of competent jurisdiction to be unconstitutional or otherwise invalid, such judgment shall not affect, impair or invalidate the remainder of this local law, and it shall be construed to have been the legislative intent to enact this local law without such unconstitutional or invalid parts therein.

Section 3. Effective Date

This local law shall take effect immediately upon filing in the Office of the Secretary of the State of New York.

Dated: April 27, 2022, Town of Babylon

BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON  
GERALDINE COMPITELLO, TOWN CLERK