

**Topic:** Alternative Dispute Resolution  
**Resource Type:** Regulations  
**State:** New York  
**Jurisdiction Type:** Municipal  
**Municipality:** Town of Guilderland  
**Year** (*adopted, written, etc.*): 2000  
**Community Type – applicable to:** Suburban; Rural  
**Title:** Guilderland Town Code – Alternative Dispute Resolution Provision  
**Document Last Updated in Database:** February 24, 2016

### ***Abstract***

The mediation of all disputes is authorized, including disputes with the town boards (i.e. the Planning Board). The statute was enacted in the interest of increasing non-adversarial resolution of disputes in the town. The mediation is voluntary, but is encouraged and can be requested by the justice presiding over the matter.

### ***Resource***

#### **Town Code Chapter 61**

Legislative Intent:

The Town Board hereby finds that a voluntary, nonadversarial mediation process would provide an expeditious, cost-efficient alternative for individual and community dispute resolution, promote effective communication among parties of interest, as well as make government more responsive to community concerns. Such a nonadversarial exchange would heighten understanding of issues and create an opportunity for the parties of interest to resolve disputes, improve communications and decrease the likelihood of future conflicts. The Town Board, therefore, declares it to be the policy of the Town of Guilderland to encourage voluntary mediation of individual and community disputes.

§ 61-2. Definitions.

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

**APPLICANT**

An individual with an application pending before a board of authorized jurisdiction.

**BOARD**

The Town Board, Planning Board or Zoning Board of Appeals of the Town of Guilderland.

#### COURT

The Guilderland Town Court.

#### INDIVIDUAL

A person, partnership or corporation.

#### MEDIATION

A voluntary and nonadversarial process where a mediator assists parties of interest in resolving disputes, improving communication or decreasing the likelihood of future conflicts.

#### MEDIATOR

An individual who is certified pursuant to the guidelines of the New York State Unified Court System to conduct mediations.

#### NEIGHBOR

Any individual that owns property immediately abutting the property line of an applicant before a board of authorized jurisdiction or, if said property line abuts a public road, railroad track or body of water, then the individual that owns property immediately across said public road, railroad track or body of water.

#### PARTIES OF INTEREST

The plaintiff and defendant in a civil action before a court of authorized jurisdiction or the applicant and neighbor in an action before a board of authorized jurisdiction

#### § 61-3. Authorized mediation.

A. The Town of Guilderland hereby authorizes and encourages the use of mediation for the resolution of disputes before any court or board of authorized jurisdiction or any other issue authorized by the Town Supervisor. The town shall display information on town-authorized mediation as well as the benefits of voluntary mediation in nonmunicipal settings.

B. The following rules shall apply to a mediation requested by a court of authorized jurisdiction:

(1) The presiding justice may request that the parties of interest consider mediation before the court renders a final determination.

(2) The use of mediation shall be voluntary and shall be determined in each case by the willingness of the parties of interest to participate.

(3) The court may provide findings of fact to the mediator.

(4) In the event that a mediated agreement is achieved, such agreement shall be prepared in writing, signed by the parties of interest and the mediator, and submitted to the court.

C. The following rules shall apply to a mediation requested by a board of authorized jurisdiction:

(1) A board may request that the parties of interest consider mediation before the board renders a final determination.

(2) The use of mediation shall be voluntary and shall be determined in each case by the willingness of the parties of interest to participate.

(3) Any applicant seeking a board's approval who participates in mediation shall consent to the suspension of relevant time limits for municipal review on such terms as the applicant and the board of authorized jurisdiction agree.

(4) The board may provide findings of fact to the mediator.

(5) In the event that a mediated agreement is achieved, such agreement shall be prepared in writing, signed by the parties of interest and the mediator, and submitted to the court.

D. A mediator certified pursuant to the guidelines of the New York State Unified Court System shall conduct all mediations within the Town of Guilderland

#### § 61-4. Accepted practices.

Any voluntary mediation undertaken pursuant to the provisions of this chapter shall be conducted in accordance with accepted mediation practices, including but not limited to those developed by the New York State Unified Court System.

#### § 61-5. Confidentiality.

Unless otherwise required by law, all memoranda, work product or case files of a mediator shall be deemed confidential and not subject to disclosure in any judicial or administrative proceeding. Any communication relating to the subject matter of the resolution made during the mediation process by any participant, mediator or any other individual present at a mediation session or sessions shall be a confidential communication

#### § 61-6. Mediation costs.

The Town of Guilderland shall provide a room for court- or board-requested mediations at no cost to the parties of interest. The town may enter into a mutually accepted agreement with the Albany County Center for Alternative Dispute Resolution for pro bono mediations and at-cost mediations. Any cost associated with mediations conducted pursuant to the provisions of this chapter shall be allocated among the parties of interest in a matter to be determined by the mutual agreement of the parties. The town, at its discretion, may enter into an agreement for sharing the costs of such mediation.

§ 61-7. Limitations.

A. Mediated agreements initiated pursuant to this chapter shall complement, but not circumvent, any federal, state, county or municipal law, rule or regulation.

B. Mediated agreements initiated pursuant to this chapter shall be considered highly persuasive by a court or board; however, such agreements shall not circumvent the authority of the court or board in rendering a final decision.

*Town of Guilderland, N.Y., Town Code ch. 61 (July 7, 2000).*