

VILLAGE OF GOWANDA

MUNICIPAL CODE

COUNTIES OF CATTARAUGUS AND ERIE

STATE OF NEW YORK

MUNICIPAL CONSULTANTS & PUBLISHERS, INC.

GENEVA, NEW YORK

VILLAGE OF GOWANDA MUNICIPAL CODE
2021 OFFICIALS

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Board of Trustees:	Wanda Koch Peter Sisti Carol Sheibley Paul Zimmerman
Village Clerk:	Danielle Wagner
Village Treasurer:	Traci Hopkins
Village Attorney:	Deborah Chadsey, Esq.
Building Inspector/Code Enforcer:	Gary A. Brecker
Officer-in-Charge/Police Department:	Dennis Feldmann
Fire Chief:	Stephen Raiport
Recreation Director:	Mark Benton
Highway Supervisor:	Gary Denea
Water Supervisor:	Kirk Trumpore
Sewer Supervisor:	Andrew Carriero

1995 RECODIFICATION

The Village of Gowanda has recodified certain laws of the Municipal Code.

Most notable is the complete redrafting of Chapter 26 which has been brought up to date to provide for the enforcement of the New York State Uniform Fire Prevention and Building Code. This is also reflected in the Housing Code. Other updates include a new chapter on Parks and Recreation, Cross-connection control regulations under Water Service, a new Article for User Charge Systems for users that contribute industrial or similar wastes to the sewer system, a Curfew Law, as well as other revisions too numerous to mention.

A new thorough Index has been prepared which should assist everyone using this Municipal Code.

Most important, sufficient copies of the revised Municipal Code are being provided so Village Officials, residents and other interested parties will be able to quickly find the pertinent law of the Village of Gowanda.

It has been 21 years since the original Municipal Code was adopted. May this revision (with supplementations) last another 20 years.

September 1, 1995

Municipal Consultants & Publishers, Inc.

PREFACE

The Village of Gowanda is one of the few villages in New York State that is located in two counties, namely Cattaraugus and Erie. This Municipal Code was prepared to meet the unique requirements of the Village of Gowanda. This Code will be enacted by a local law since recent amendments to the Village Law remove the procedures for enactment of ordinances by villages. Likewise all future amendments to this Code will be made by local laws.

This work includes many new Chapters such as Chapter 1, General Provisions; Chapter 37, Unsafe Buildings; and Chapter 60, Traffic and Vehicles. Other existing regulations have been substantially revised to conform with state law and to make the Code compatible.

In order to complete this most important project, the cooperation of many Village Officials was required. Among those who assisted us were the Village Clerk-Treasurer, Henry E. Miller, and the Deputy Clerk, Virginia Erickson, who did much of the compilation of existing ordinances and local laws as well as providing other valuable background information. The traffic survey which is the basis for the new Chapter on Traffic and Vehicles was conducted by the Police Department under the direction of Police Chief Richard Stitzel. Both the former Village Attorney, Andrew J. Musacchio., and the present Village Attorney, Charles Hart, have reviewed our drafts and made their recommendations which have been incorporated in the Code. The Planning Commission and Board of Appeals have reviewed the Zoning regulations and made their suggestions for revisions which are now embodied in Chapter 30.

Consultations and reviews were held with the Board of Trustees consisting of Mayor Donald N. Lazar and Trustees Nelson E. Hager, Charles Cocca, Andrew LaBombard and William Sheehan. Their assistance and review as indispensable since the final responsibility for the preparation and enactment of this Code rests with them.

By enactment of this Municipal Code, all the general local laws (and former ordinances) of the Village of Gowanda will be readily available to the Officials and citizens of this Village. We are pleased to present the "Village of Gowanda Municipal Code" to the Village of Gowanda.

October 30, 1974

MUNICIPAL CONSULTANTS & PUBLISHERS, INC.

PROCEDURAL GUIDES

Since all permanent legislative enactments by Villages are required to be done by local law, Chapter 974 of the Laws of 1973; Chapters 1028 and 1029 of the Laws of 1979) effective September 2, 1974), this Code has been adopted as a local law replacing all prior general ordinances and local laws pursuant to the authority in Municipal Home Rule Law §20(3). Cf State Local Government §10(1).

The Municipal Code is arranged in major titles as follows:

- I Administrative
- II Licensing and Regulation of Businesses
- III Planning, Building and Zoning Regulations
- IV Public Places and Property
- V Public Safety and Health
- VI Miscellaneous

The arrangement and citation of pertinent parts of the Code is set forth as follows:

Arrangement	Identification	Example
Title	Roman Numerals	Title I
Chapter	Arabic Numerals	Chapter 25
Article	Roman Numerals	Article I
Section	Arabic Numerals	25.10
Subdivision	Capital Letters	A
Paragraph	Arabic Numerals	5
Subparagraph	Small letters	A
Clause	Arabic Numerals in parenthesis	(1)
Subclause	Small letters in parenthesis	(a)
Item	Small Roman Numerals in parenthesis	(i)

Where circumstances require or are preferable, some of the above classifications have been omitted.

An exhaustive index has been prepared and should be consulted first in order to find any topic or subject matter. The next step is to consult the Insta-Supp Index which lists chronologically any amendments, repeals or additions to the Code to determine if any changes have been enacted. The pages are to be numbered in numerical order with a prefix, "T".

Any new local law amending, repealing or addition a new Chapter should embody only the subject matter contained in each separate Chapter. The local law should be prepared on a 8 ½" x 11" sheet and single-spaced. Local laws should be numbered chronologically each

year as filed in the office of the Secretary of State. In this manner, sufficient copies of the local law can be reproduced and inserted behind the Insta-Supp Index tab in the Code Books in use by the Village. Thus, each Code Book in use should always be up to date. At regular intervals, preferably once a year, the changes should be incorporated in the Code and a new Insta-Supp Index should be initiated. Recommended forms for enacting local laws and traffic regulations to be used in conjunction with this Code are set forth on the following pages.

If a new Chapter is enacted, a chapter number which has been reserved should be used. But if there is no a suitable number reserved, a new Chapter number may be designated by addition capital letters in alphabetical order. For example, a new Chapter to be inserted between Chapters 25 and 26 would be designated as Chapter 25A. Likewise, a new Section to be added to an existing Chapter should be designated by a reserved number, but if none is available or the arrangement would be illogical, then the new Section should be designated by adding a hyphen and small letter in alphabetical order. For example, a new Section to be inserted between §25.12 and §25.13 should be designated §25.12-a.

The Insta-Supp Index should be completed as follows:

Column One	Specify the number of enactment (LL-1)
Column Two	Date of enactment
Column Three	Filing date if local law. Publication date for other enactments if required
Column Four	Chapter number amended, repealed or added
Column Five	Chapter title (abbreviated)
Column Six	Section number amended, repealed or added
Column Seven	Section title (abbreviated)
Column Eight	Specify whether added, amended or repealed
Column Nine	Specify Code page affected by enactment
Column Ten	Specify Insta-Supp page where enactment is inserted, such as T-10

Checklist for Adoption of Local Laws

(See next page for additional procedures for Zoning Laws. The Secretary of State insists that all local laws be filed numerically; therefore, it is sometimes better not to assign a number until ready for filing)

1. Introduce by a member of the Board of Trustees. Mun HRL §20(4).
2. Place a final form on desks of each Board member at least seven (7) calendar days, exclusive of Sunday, before passage (or mail to each member at least ten (10) days, exclusive of Sunday before passage. Mun HRL §20(4).
3. Provide by resolution for public hearing and public notice. Mun HRL §20(5).
4. Publish notice at least three (3) days before public notice. Mun HRL §20(5).
[Chapter 99 of this Code.]
5. Hold public hearing before Board of Trustees. Mun HRL §20(5).
6. Vote by ayes and noes; majority vote of the entire Board required. Mun HRL §20(1).
7. Enter names of members present and their votes in minutes. Mun HRL §20(1).
8. If subject to mandatory referendum. Mun HRL §23(2); transmit abstract of local law and proposition to Board of Elections.
9. If subject to permissive referendum [Mun HRL §24(2)] and petition filed by at least ten (10%) percent of gubernatorial voters within forty-five (45) days, follow some procedure as in 8 above. Mun HRL §24.
10. Within twenty (20) days after final adoption, file one certified copy in clerk's office and one (1) with the Secretary of State. Mun HRL §27(1). [Amd. 1993]
11. Record and index local law in separate book(s). Mun HRL §27(6).
12. While this is not a required step, it is recommended that the public notice with affidavit of publication and the letter of the Secretary of State acknowledging receipt and filing be recorded with each local law.

ADDITIONAL PROCEDURES FOR ENACTMENT OF ZONING LAWS

(A local law need not necessarily be labeled "zoning" in order to be subject to the special requirements that must be followed in enacting same. See *Hillside Motel v Tn of Brunswick*, 74 Misc2d 1001, which held that a sign law was part of the zoning regulations requiring review by the County Planning Board)

In addition to the usual procedure for the enactment of a local law, special procedures must be followed in order to enact a zoning law.

- 1A. Refer proposed amendment to County Planning Board. Gen Mun L §239-1 and §239-m (they have 30 days to report). Also refer proposed amendment to Village Planning Board §30.51(A).
- 1C. Comply with SEQR. See ELC Art. 8; SEQR Regulations, Part 617; Chapter 2 of this Code.
- 3A. Give at least ten (10) day written notice to clerks of certain adjoining municipalities and county or state agencies. Vil L §7-706(2).
- 4A. Publish notice at least ten (10) days before public hearing. Vil L §7-706(1). Cf. Mun HRL §20(5).
- 6A. For special voting requirements see Vil L §7-708(1) and Gen Mun L §239-m where objection is made to enactment.
- 10A. Enter in minutes (excluding any map incorporated therein). Vil L §7-706(5).
- 10B. Publish once a copy, summary or abstract thereof in the official newspaper (exclusive of any map incorporated therein). Vil L §7-706(5).
- 10C. Post a copy together with summary or abstract of any map incorporated therein at or near main entrance to Village Clerk's Office. Vil L §7-706(5).
- 10D. Village Clerk shall maintain every map adopted. Vil L §7-706(6).
- 11A. File affidavits of publication and posting with Village Clerk. Vil L §7-706(5).
- 12A. Zoning Law shall take effect upon filing in the office of the Secretary of State unless personal service is affected. Vil L §7-706(7).

Table of Contents

Title I Administrative

CHAPTER

1 GENERAL PROVISIONS

- 1.1 Title
- 1.2 Definitions
- 1.3 Rules of Construction
- 1.4 Repeal of Prior Ordinances and Local Laws
- 1.5 Repeal of Chapters Contained in the Code
- 1.6 Unconstitutionality or Illegality
- 1.7 Unlawful Alteration of Code
- 1.8 Annotations and Material Contained in Brackets
- 1.9 Conflict with Other Provisions
- 1.10 Penalty When Not Otherwise Prescribed
- 1.15 Interpretation

2 CONTINUITY OF GOVERNMENT

- 2.1 Intent
- 2.2 Definitions
- 2.3 Designation, Status, Qualifications and Terms of Designation of Emergency Interim Successors
- 2.4 Assumption of Powers and Duties of Officer by Emergency Interim Successor
- 2.5 Recording and Publication of Designations
- 2.6 Qualification for Taking Office
- 2.7 Quorum and Vote Requirements

3 DEFENSE AND INDEMNIFICATION OF MUNICIPAL OFFICIALS AND EMPLOYEES

4 CODE OF ETHICS

- 4.1 Purpose
- 4.2 Definitions
- 4.3 Standards of Conduct
- 4.4 Personal Claim Not Prohibited
- 4.5 Distribution of Code of Ethics
- 4.6 Penalties

CHAPTER

5 VILLAGE ADMINISTRATOR (Repealed)

6 RECREATION COMMISSION

6.1 Establishment of Recreation Commission

6.2 Organization

6.3 General Powers

6.4 Recreation Director

6.5 Annual Budget; Gifts

6.6 Reports

7 PRIOR WRITTEN NOTICE LAW

7.1 Title

7.2 Legislative Declaration

7.3 Written Notice of Defective Condition Required for Injuries on
Highways and Village Property

7.4 Prior Written Notice Required

7.5 Notice; Contents

7.6 Service of Notice

7.7 Record of Notice

7.8 Repeal of Existing Requirements Not Intended

Table of Contents

Title II

LICENSING AND REGULATION OF BUSINESSES

CHAPTER

12 BINGO

- 12.1 Purpose
- 12.2 Right to Conduct Game of Bingo
- 12.3 Restrictions Upon Conduct of Bingo Games
- 12.4 Conduct of Games on Sunday
- 12.5 Delegation of Authority to Village Clerk

13 GAMES OF CHANCE

- 13.1 Purpose
- 13.2 Definitions
- 13.3 Games of Chance Authorized
- 13.4 Conduct of Games on Sunday

16 LICENSING OF BUSINESSES AND OCCUPATIONS

ARTICLE I – GENERAL PROVISIONS

- 16.1 Scope of Article
- 16.2 General Provisions for the Issuance of Licenses
- 16.3 Application and Issuance of Licenses and Permits
- 16.4 Revocation, Suspension and Conditions of License
- 16.5 Display of License
- 16.6 Prepayment of Fee and Record of Issuance

ARTICLE II – AMUSEMENTS

- 16.21 Circuses, Carnivals, Exhibitions and Shows
- 16.22 Licenses and Fees of Circuses, Carnivals, Exhibitions and Shows

ARTICLE III – JUNK YARDS AND JUNK DEALERS

- 16.31 Junk Yards
- 16.32 Junk Dealers
- 16.33 License Fee

CHAPTER

ARTICLE IV – PENALTY

16.50 Penalty

17 PEDDLERS AND SOLICITORS

- 17.1 Definitions
- 17.2 Exemptions
- 17.3 License Required
- 17.4 Application for License
- 17.5 Bonds, When Required
- 17.6 Issuance for License
- 17.7 Use of License by Another Person Prohibited
- 17.8 Loss of License
- 17.9 Contents and Form of License
- 17.10 Term of License
- 17.11 Exhibition of License
- 17.12 License Fees
- 17.13 Revocation of License
- 17.14 Prohibited Acts
- 17.15 Orders
- 17.16 Records
- 17.17 Penalty

21 AMBULANCES

- 21.1 Definitions
- 21.2 License Required
- 21.3 Application of License
- 21.4 Standards for Ambulance License
- 21.5 License Fee; Term
- 21.10 Violation and Penalty

23 TAXICABS

- 23.1 Definitions
- 23.2 Taxicabs to be Licensed
- 23.3 Application for Taxicab Licenses
- 23.4 Use of Similar Name Prohibited
- 23.5 Term of Taxicab License; Display Thereof
- 23.6 Renewal of Taxicab Licenses
- 23.7 Fees for Taxicab Licenses
- 23.8 Taxicab Driver's Qualifications
- 23.9 Taxicab Driver's License
- 23.10 Taxicab Driver's Record

CHAPTER

23 TAXICABS (CONTINUED)

- 23.11 Suspension and Revocation of Licenses
- 23.12 Transfer of Taxicab License
- 23.13 Fees for Taxicab Driver's License and Term Thereof
- 23.14 Licenses; Counter Signature and Endorsement
- 23.15 Penalties

25 UTILITY TAX

- 25.1 Tax on the Furnishing of Utility Services
- 25.2 Definitions
- 25.3 Records of Utility
- 25.4 Filing by Utility
- 25.5 Payment of Tax
- 25.6 Sufficiency of Return
- 25.7 Notice
- 25.8 Failure to File
- 25.9 Refund
- 25.10 Tax Not to be Added to Bill
- 25.11 Failure to Pay Tax
- 25.12 Rules and Regulations of Treasurer
- 25.13 Disclosure by Treasurer
- 25.14 Disposition of Taxes and Penalties

Table of Contents

Title III PLANNING, BUILDING AND ZONING REGULATIONS

CHAPTER

26 BUILDING CODE ENFORCEMENT

ARTICLE I - PURPOSE

- 26.1 Short Title
- 26.2 Purpose
- 26.3 Area of Responsibility

ARTICLE II - ENFORCEMENT OFFICER

- 26.21 Designation of Building Inspector as Public Official
- 26.22 Appointment of Deputy Building Inspectors
- 26.23 Acting Building Inspector
- 26.24 Restrictions on Officers and Employees
- 26.25 Duties and Powers of Building Inspector
- 26.26 Department Records and Reports
- 26.27 Cooperation of Other Departments
- 26.28 Variance and Review

ARTICLE III - BUILDING PERMITS

- 26.31 Application for Building Permit
- 26.32 Issuance of Building Permit
- 26.33 Performance of Work Under Building Permit
- 26.34 Building Permit and Related Fees
- 26.35 Revocation of Building Permit
- 26.36 Stop Orders
- 26.37 Right of Entry
- 26.38 Inspections
- 26.39 Permits for Solid Fuel Heating Appliances, etc.

ARTICLE IV - CERTIFICATE OF OCCUPANCY

- 26.41 Certificate of Occupancy
- 26.42 Inspections Prior to Issuance of Certificate
- 26.43 Issuance of Certificate of Occupancy
- 26.44 Temporary Certificate of Occupancy
- 26.45 Tests

CHAPTER

26 BUILDING CODE ENFORCEMENT (CONTINUED)

ARTICLE V - ELECTRICAL INSPECTIONS

- 26.51 Authorization to Make Inspections
- 26.52 Duties of Inspector
- 26.53 Schedule of Rates
- 26.54 Exemption Permits
- 26.55 Exceptions
- 26.56 No Waiver or Assumption of Liability
- 26.57 Violations of Articles

ARTICLE VI - PENALTIES

- 26.100 Penalties for Violation
- 26.101 Abatement of Violation

27 HOUSING CODE

ARTICLE I - RESIDENTIAL PREMISES

PART 1 - GENERAL PROVISIONS

- 27.1 Purpose
- 27.2 Scope
- 27.3 Non-Applicability
- 27.4 Application
- 27.5 Reference to New York State Building Construction Code and Other Laws
- 27.6 Definitions

PART 2 - SPACE REQUIREMENTS

- 27.7 General Requirements
- 27.8 Occupancy Classification of Buildings
- 27.9 Maximum Occupancy
- 27.10 Prohibited Uses
- 27.11 Habitable Space
- 27.12 Public Space
- 27.13 Non-inhabitable Space
- 27.14 Access and Vertical Travel Between Stories
- 27.15 Exits

CHAPTER

27 HOUSING CODE (CONTINUED)

PART 3 - STRUCTURAL REQUIREMENTS

- 27.16 General Requirements
- 27.17 Exterior Protection
- 27.18 Interior Protection

PART 4 - FIRE/SAFETY REQUIREMENTS

- 27.19 Prohibited Accumulations and Storage
- 27.20 Prevention of Fire Spread
- 27.21 Interior Finishes, Trim and Decorative Materials
- 27.22 Fireplaces

PART 5 - EQUIPMENT REQUIREMENTS

- 27.23 General Requirements
- 27.24 Plumbing
- 27.25 Fuel Gas
- 27.26 Heating
- 27.27 Chimneys, Flues and Gas Vents
- 27.28 Incinerators
- 27.29 Electrical
- 27.30 Cooking and Refrigeration
- 27.31 Air Conditioning and Mechanical Ventilation in One and Two-Family Dwellings
- 27.32 Air Conditioning and Mechanical Ventilation in Multiple Dwellings
- 27.33 Fuel Oil
- 27.34 Fire Protection in Multiple Dwellings
- 27.35 Elevators, Dumbwaiters and Escalators in Multiple Dwellings

PART 6 - PROPERTY MAINTENANCE REQUIREMENTS

- 27.36 General Requirements
- 27.37 Open Areas
- 27.38 Buildings and Structures
- 27.39 Infestations and Screening
- 27.40 Garbage and Refuse
- 27.41 Domestic Animals and Pets

CHAPTER

27 HOUSING CODE (CONTINUED)

ARTICLE II – MOBILE HOMES AND MOBILE HOME COURTS

PART 1 – GENERAL PROVISIONS

- 27.51 Purpose
- 27.52 Scope
- 27.53 Application
- 27.54 Reference to New York State Building Construction Code and Other Laws
- 27.55 Permit
- 27.56 Definitions

PART 2 – MOBILE HOMES

- 27.57 General Requirements
- 27.58 Design and Construction
- 27.59 Space Requirements
- 27.60 Light and Ventilation
- 27.61 Mechanical Systems and Equipment
- 27.62 Maintenance

PART 3 – MOBILE HOME COURTS

- 27.63 General Requirements
- 27.64 Utilities
- 27.65 Mobile Home Lots
- 27.66 Community Areas
- 27.67 Community Structures
- 27.68 Community Fuel Storage
- 27.69 Property Maintenance

ARTICLE III – ADMINISTRATION AND COMPLIANCE

PART 1 – GENERAL PROVISIONS

- 27.81 Purpose
- 27.82 Scope
- 27.83 Non-Applicability

CHAPTER

27 HOUSING CODE (CONTINUED)

PART 2 – ADMINISTRATION

- 27.84 Administrative Agency
- 27.85 Powers and Duties
- 27.86 Inspection
- 27.87 Records

PART 3 – COMPLIANCE

- 27.91 Responsibilities of Owners
- 27.92 Responsibilities of Lodging House Operators
- 27.93 Responsibilities of Occupants

PART 4 – PENALTIES

- 27.100 Violations and Penalties

- 27.200 Solar Panel Permit

28 DAMAGED, DISMANTLED, INOPERABLE VEHICLES

- 28.1 Legislative Findings
- 28.2 Definitions
- 28.3 Prohibition – Exceptions
- 28.4 Violations and Penalties

30 ZONING

ARTICLE I – TITLE AND DEFINITIONS

- 30.1 Short Title
- 30.2 Definitions

ARTICLE II – ZONING DISTRICTS

- 30.21 Establishment of Districts
- 30.22 R-1 Districts, One Family Residential Districts, Regulations
- 30.23 R-2 Districts, One Family Residential Districts, Regulations
- 30.24 R-3 Districts, Multiple Residential Districts
- 30.25 B-1 Districts, General Business Districts, Regulations
- 30.26 B-2 Districts, Restricted Business Districts, Regulations
- 30.27 I-1 Districts, General Industrial Districts, Regulations
- 30.28 Planned Development Districts
- 30.29 MF Districts, Medical Facilities Districts, Regulations

CHAPTER

30 ZONING (CONTINUED)

ARTICLE III – GENERAL PROVISIONS

- 30.31 Non-Conforming Uses
- 30.32 Change of Non-Conforming Uses
- 30.33 Outdoor Advertising Signs or Display Devices
- 30.34 Visibility at Intersections
- 30.35 Front Yard Transition
- 30.36 Height Exceptions
- 30.37 Side Yards for Corner Lots
- 30.38 Porches, Steps and Terraces
- 30.39 Dwelling on Pre-Existing Undersize and Corner Lots
- 30.40 Lot Area Reduction

ARTICLE IV – ENFORCEMENT

- 30.41 Enforcement Provisions
- 30.42 Building Permits
- 30.43 Certificate of Occupancy
- 30.44 Board of Appeals
- 30.45 Permitted Special Uses

ARTICLE V – AMENDMENTS

- 30.51 Amendments

ARTICLE VI – VIOLATIONS

- 30.100 Violations and Penalties

31 SUBDIVISION REGULATIONS

ARTICLE I – SUBDIVISION REGULATIONS

- 31.1 Definitions
- 31.2 Procedure
- 31.3 Design Standards
- 31.4 Required Improvements
- 31.5 Plats and Data
- 31.6 Variances
- 31.7 Final Approval by Board of Trustees
- 31.8 Penalties

CHAPTER

ARTICLE II – SITE PLAN REVIEW PROCEDURES

- 31.20 Definitions
- 31.21 Intent
- 31.22 Authorization and Approval
- 31.23 Applicability
- 31.24 Site Plan Review Process
- 31.25 Planning Board Action
- 31.26 Village Board Action
- 31.27 Fees
- 31.28 Reimbursable Costs
- 31.29 Appeals
- 31.30 Improvements
- 31.31 Time Restriction for Action on Final Site Plan
- 31.32 Failure to Comply
- 31.33 Effect on Existing Uses
- 31.34 Appeals Procedures
- 31.35 Severability

31-A LANDSCAPE REGULATIONS

- 31-A.01 Purpose
- 31-A.02 Goals
- 31-A.03 Definitions
- 31-A.04 Applicability
- 31-A.05 Landscape Plan Submission and Approval Process
- 31-A.06 General Landscape Plan Requirements
- 31-A.07 Specific Landscape Plan Requirements
- 31-A.08 Streetscape Hardware Standards
- 31-A.09 Time Restrictions for Action on Final Site Plan Landscaping
- 31-A.10 Maintenance
- 31-A.11 Failure to Comply
- 31-A.12 Effect on Existing Uses
- 31-A.13 Appeal Procedures
- 31-A.14 Severability

33 UNSAFE BUILDINGS

- 33.1 Unsafe Buildings Defined
- 33.2 Standards for Repair, Vacation or Demolition
- 33.3 Unsafe Buildings, Nuisances
- 33.4 Duties of Building Inspector
- 33.5 Duties of Board of Trustees
- 33.6 Violation and Penalties
- 33.7 Emergency Cases

CHAPTER

33 UNSAFE BUILDINGS (CONTINUED)

- 33.8 Where Owner Absent from the Village
- 33.9 Administrative Liability
- 33.10 Duties of Fireman
- 33.11 Duties of Police Department

FLOOD DAMAGE PROTECTION-Local Law #1 of 2019

35 SWIMMING POOLS

- 35.1 Purpose
- 35.2 Definitions and Clarification
- 35.3 Permits
- 35.4 Location
- 35.5 Construction and Equipment
- 35.6 Water Supply and Drainage
- 35.7 Fence
- 35.8 Electrical Work and Heating
- 35.9 Maintenance
- 35.10 Reasonable Use
- 35.11 Existing Pools
- 35.20 Penalties for Violation

36 ADULT ENTERTAINMENT DISTRICT

- 36.1
- 36.2 Purpose
- 36.3 Definitions
- 36.4 Regulated Adult Entertainment
- 36.5 Restrictions
- 36.6 Registration of Information Required
- 36.7 Exterior Display Prohibited
- 36.8 Amortization Schedule for Existing Uses
- 36.9 Severability

Table of Contents

Title IV PUBLIC PLACES AND PROPERTY

CHAPTER

41 PARKS AND RECREATION AREAS

- 41.1 Title
- 41.2 Application
- 41.3 Regulations Relating to the Use of Village Parks
- 41.10 Penalties

44 STREETS AND PUBLIC PLACES

ARTICLE I – USE OF STREETS

- 44.1 Excavations; Permission Required
- 44.2 Barricading Street Openings
- 44.3 Storage of Building Materials in Street
- 44.4 Barriers or Excavations on Street Lines
- 44.5 Removing Warning Lights or Barriers Prohibited
- 44.6 Maintenance and Cleaning of Sidewalks
- 44.7 Repairing Lateral Sewers; Owner's Responsibility
- 44.8 Obstructing Sidewalks Prohibited
- 44.10 Awnings
- 44.11 Fence Gates
- 44.12 Littering
- 44.13 Throwing Snow into Streets or Highways Prohibited
- 44.14 Throwing or Depositing of Debris or Trash in Highways Prohibited
- 44.15 Littering by Trucks or Other Vehicles Prohibited
- 44.16 Fastening Animals
- 44.17 Driving on Sidewalks
- 44.18 Obstructing Entrance to Public Place
- 44.19 Moving Buildings
- 44.20 Erection of Posts, Planting of Trees

ARTICLE II – WIRES AND POLES

- 44.21 Permit Required
- 44.22 Intended Location to be Stated in Application
- 44.23 Indemnification of the Village of Gowanda
- 44.24 Fire Alarm Reporting System Priority
- 44.25 Size and General Description of Poles

CHAPTER

44 STREETS AND PUBLIC PLACES (CONTINUED)

ARTICLE II - WIRES AND POLES (CONTINUED)

- 44.26 Poles to be Branded by Owner
- 44.27 Removal of Dead Wires and Poles
- 44.28 Change Notice of/or Alteration
- 44.29 Location of Poles
- 44.30 Power of Chief of Fire Department
- 44.31 Reservation by Village for Fire Alarm Reporting System
- 44.32 Changing Location of Poles

ARTICLE III - ENCROACHMENT OF BUILDINGS INTO STREET

- 44.35 Buildings Not to Project into Street

ARTICLE IV - GRASS AND WEEDS

- 44.41 Space Between Street Lines and Curb Space to be Kept Free from Weeds and Obstructions
- 44.42 Control of Grass and Weeds on Private Property
- 44.45 Enforcement Procedures

ARTICLE V - BILL POSTING AND BILLBOARDS

- 44.51 Advertisements on Sidewalks, Hydrant or Poles
- 44.52 Billboards
- 44.53 Fences Not to be used

ARTICLE VI - SHADE TREES

- 44.61 Trees not to be Trimmed or Removed Without Permission
- 44.62 Horses or Other Animals not to be Hitched to Trees
- 44.63 Wires not to be Attached to Trees Without Consent
- 44.64 Wires, how to be Located

ARTICLE VII - INDEMINITY BONDS

- 44.71 Bonds Required
- 44.72 Penalty of Bond
- 44.73 General Bond
- 44.74 Agreement in Lieu of Bond

CHAPTER

WATER SERVICE-Local Law #4 of 2015

46 SANITARY SEWERS

ARTICLE I – DEFINITIONS

46.1 Definitions

ARTICLE II – USE OF PUBLIC SEWERS REQUIRED

46.21 Unsanitary Disposal of Wastes Prohibited

46.22 Discharge of Untreated Sewage Prohibited

46.23 Use of Sewers

46.24 Use of Privies, Septic Tanks and Other Facilities Restricted

46.25 Connection to Available Public Sewer Required

46 SANITARY SEWERS (CONTINUED)

ARTICLE III – PRIVATE SEWAGE DISPOSAL

46.31 Private Sewage Disposal

46.32 Permit Required; Fee

46.33 Inspection

46.34 Compliance with State Health Recommendations

46.35 Connection with Public Sewer When Available

46.36 Operation at Owner's Expense

46.37 Health Officer May Impose Additional Requirements

ARTICLE IV – BUILDING SEWERS AND CONNECTIONS

46.41 Permit Required to Connect with Public Sewer

46.42 Classes of Building-Sewer Permits

46.43 Costs to be Borne by Owner

46.44 Separate Building Sewers; Exceptions

46.45 Old Building Sewers, when Permitted

46.46 Construction to Conform to Rules and Regulations

46.47 Required Elevation of Building Sewer

46.48 Drainage Connections to Sanitary Sewers Prohibited

46.49 Standards for Connection to Public Sewer

46.50 Superintendent to Inspect Connection

46.51 Guarding of Excavations; Restoration

46.52 Serving Schools, Hospitals, or Public Buildings

46.53 Building Sewer Service or Repair

CHAPTER

46

46.54 Building Sewer Cleanouts

ARTICLE V - USE OF PUBLIC SEWERS

46.55 Discharge of Surface Waters Prohibited in Sanitary Sewer

46.56 Discharge of Storm Water or Unpolluted Drainage

46.57 Prohibited Wastes or Waters

46.58 Restrictions on Discharge of Certain Wastes

46.59 Actions to Restrict Certain Wastes

46.60 Interceptors, when Required

46.61 Facilities to be Maintained by Owner

46.62 Manholes, when Required

46.63 Measurements, Tests, Analyses

46.64 Special Agreements Permitted

4Determination Issued by the Superintendent

46.65 Discharges of Industrial Waste Violating Local Law

ARTICLE VI - PROTECTION FROM DAMAGE

46.66 Penalty for Damaging or Tampering with Sewer

46.67 Contractor's Certificate of Insurance

ARTICLE VII - SIGNIFICANT USERS

46.68 General

46.69 Determination of Significant User

46.70 Significant User Discharge Permit

46.71 Additional Data

46.72 Permit Approval

46.73 Duration of Permits

46.74 Permit Transfer

46.75 Changes to Permit

46.76 Permit Terms and Conditions

46.77 Permit Fee

ARTICLE VIII - POWERS AND AUTHORITY OF INSPECTORS

46.78 Right to Make Inspections and Inquiries

46.79 Observation of Safety Rules

46.80 Entry on Easements

46.81 Government Agencies' Powers and Authority

46.82 Inspections and Reports Available to the Public

ARTICLE IX – USER CHARGE SYSTEM

46.83 Short Title

46.84 General Information

ARTICLE IX-A – BASIS FOR CHARGES

ARTICLE IX-B – USE OF FUNDS

ARTICLE IX-C – FACTORS AFFECTING CHARGES

ARTICLE IX-D – BILLINGS

ARTICLE IX-E – SURCHARGES

ARTICLE IX-F – INCONSISTENT AGREEMENTS

ARTICLE IX-G – OUTSIDE INTERESTS

ARTICLE IX-H – APPEALS

ARTICLE IX-I – PERIODIC REVIEWS

ARTICLE X – PENALTIES

46.85 Violation of Article VI, Section I

46.86 Written Notice of Violation

46.87 Continued Violation

46.88 Civil Liability

ARTICLE XI – VALIDITY

46.89 Conflict with Local Law

46.90 Validity of this Local Law

46.91 Village Right of Revision

ARTICLE XII – SEWER EXTENSIONS

46.92 Design of Sewer Extensions

46.93 Construction by Public Contract

46.94 Construction by Private Concerns

46.95 All Sewers to be Owned and Maintained by Village of Gowanda

46.96 Approved Method of Waste Disposal Required

ARTICLE XIII – EFFECTIVE DATE

46.97 Effective Date

Title V

PUBLIC SAFETY AND HEALTH

CHAPTER

47 REGULATING USE OF ROLLER BLADES/SKATE BOARDS

54 ANIMALS

ARTICLE I - ANIMALS AND FOWL RUNNING AT LARGE

54.1 Certain Animals and Fowl not to run at Large

54.2 Seizure of Animals or Fowl Running at Large

54.3 Redemption of Seized Animals or Fowl

54.4 Disposal of Unredeemed Animals or Fowls

54.5 Records

ARTICLE II - DOG CONTROL

54.31 Definitions

54.32 Certain Dogs not to Run at Large

54.32A Dogs at Large

54.33 Habitually Barking Dog

54.34 Prohibited Acts of Dogs

54.35 Impoundment of Dogs in Violation

54.36 Disposal of Seized Dogs

54.37 Procedure for Complaints

54.38 Dog Control Officer

54.39 Authority of Town Justice

ARTICLE III - PENALTIES

54.50 Penalties

55 FIRE PREVENTION

55.1 Applicability

55.2 Short Title

55.3 Administration

55.4 Rules and Regulations

55.5 Permits

55.6 Inspections

CHAPTER

55 FIRE PREVENTION (CONTINUED)

- 55.7 Violations
- 55.8 Penalties
- 55.9 Records
- 55.10 Removal of Dangerous Buildings or Structures
- 55.11 Review Board

60 TRAFFIC AND VEHICLES

ARTICLE I - GENERAL PROVISIONS

- 60.1 Definitions
- 60.2 Turning Movements
- 60.3 Authority to Install Traffic Control Devices
- 60.4 One-Way Roadways

ARTICLE II - STOP AND YIELD INTERSECTIONS

- 60.21 Through Highways
- 60.22 Stop Intersections
- 60.23 Yield Intersections

ARTICLE III - SPEED REGULATIONS

- 60.31 Maximum Speed Limits
- 60.32 Maximum School Speed Limits

ARTICLE IV - PARKING, STANDING AND STOPPING

- 60.41 Application of Article
- 60.42 All Night Parking
- 60.43 Parking Prohibited in Designated Locations
- 60.44 Standing Prohibited in Designated Areas
- 60.45 Stopping Prohibited in Designated Areas
- 60.46 Parking Time Limited in Designated Locations
- 60.47(a) Parking on Sidewalk
- 60.47(b) Parking on Crosswalk
- 60.47(c) Parking on Roadway
- 60.47(d) Parking in Loading Zone
- 60.47(e) Parking in Handicapped Parking
- 60.47(f) Parking Less than 15' from Fire Hydrant
- 60.47(g) Park or Parked in Intersection
- 60.47(h) Parked - Facing Traffic
- 60.47(i) Parked in Driveway

CHAPTER

60 TRAFFIC AND VEHICLES (CONTINUED)

ARTICLE IV – PARKING, STANDING AND STOPPING (CONTINUED)

- 60.47(j) Parked in Fire Zone
- 60.47(k) Parking with No/Expired Inspection
- 60.47(l) Parking with No/Expired Registration

ARTICLE V – DELEGATION OF POWERS

- 60.61 Authority of the Chief of Police to Regulate Traffic

ARTICLE VI – TRAFFIC CONTROL SIGNALS

- 60.71 Traffic Control Signals

ARTICLE VII – MISCELLANEOUS

- 60.81 Removal and Storage of Vehicles
- 60.82 Truck Exclusions
- 60.83 Application of Pavement Markings

ARTICLE VIII – PENALTIES

- 60.100 Penalties

65 PUBLIC SAFETY

ARTICLE I – PUBLIC CONDUCT

- 65.1 Riotous Conduct
- 65.2 Disturbance in Places of Public Assembly
- 65.3 Throwing of Stones or Missiles
- 65.4 Discharge of Guns or Weapons
- 65.5 Public Intoxication
- 65.6 Soliciting Alms
- 65.7 Injuring Village Property
- 65.8 Sliding on Sidewalks
- 65.9 Posting Signs
- 65.10 Spitting

ARTICLE II – OPEN BEVERAGE CONTAINERS

- 65.21 Open Containers of Alcoholic Beverages Prohibited
- 65.22 Exceptions

CHAPTER

65 PUBLIC SAFETY (CONTINUED)

ARTICLE III - NOISE

- 65.31 Prohibition of Certain Noises
- 65.32 Exceptions
- 65.33 Authority to Suspend Provisions

ARTICLE IV - FIRE SAFETY

- 65.41 False Alarm
- 65.42 Injuring Hose
- 65.43 Obstructing Firemen
- 65.44 Obstruction Near Hydrant
- 65.45 Interfering with Fire Chief or his Assistants

ARTICLE V - FIREWORKS PERMIT

- 65.51 Designation of Mayor as "Permit Authority"

ARTICLE VI - CURFEW

- 65.61 Curfew on Minor Persons
- 65.62 Responsibility of Parent or Guardian
- 65.63 Police to Enforce
- 65.64 Parent or Guardian Liable to Prosecution
- 65.65 Detention of Minor
- 65.69 Violations of Article; Penalties

ARTICLE VII - LOITERING

- 65.71 Loitering

ARTICLE VIII - PENALTY

- 65.81 Penalty

CHAPTER

72 SOLID WASTE

ARTICLE I - RECYCLING, COLLECTION AND DISPOSAL

- 72.1 Title
- 72.2 Legislative Determinations
- 72.3 Definitions
- 72.4 Source Separation of Solid Waste
- 72.5 Compliance Required
- 72.6 Residential and Non-Residential Generators
- 72.7 Disposal on Streets Prohibited
- 72.8 Solid Waste Collection License
- 72.9 Promulgation of Rules, Regulations and Orders
- 72.10 Enforcement
- 72.11 Penalties for Offenses

Title VI
MISCELLANEOUS

CHAPTER

81 PARTIAL TAX EXEMPTION

- 81.1 Partial Tax Exemption for Certain Persons Over 65 Years of Age
- 81.2 Limitations on Exemption
- 81.3 Annual Application Required
- 81.4 Notice to Applicants
- 81.10 Penalties and Forfeiture

82 TAX EXEMPTION FOR ELIGIBLE BUSINESS FACILITIES CERTIFIED
BY NEW YORK STATE JOB INCENTIVE BOARD

- 82.1 Exemption of Certain Business Facilities
- 82.2 Application for Exemption
- 82.3 Duties of the Village Assessor
- 82.4 Effective Date

83 VETERANS ALTERNATIVE EXEMPTION

- 83.1 Intent
- 83.2 No Exemption to Veterans Pursuant to RPTL § 458-a

84 SIGNS

- 84.1 Purpose
- 84.2 Applicability
- 84.3 Definitions
- 84.4 Permit Required
- 84.5 Permit Exceptions
- 84.6 Application Procedure
- 84.7 Regulations Pertaining to all Signs in all Districts
- 84.8 Sign Regulations in R Districts
- 84.9 Sign Regulations in B1, B2 and I1 Districts
- 84.10 Temporary and Special Purpose Signs
- 84.11 "For Sale," For Rent," and "Sold" signs
- 84.12 Exceptions
- 84.13 Non-Conforming Signs
- 84.14 Old and Historic District

CHAPTER

84 SIGNS (CONTINUED).

- 84.15 Enforcement
- 84.16 Variances
- 84.17 Safety Provisions
- 84.18 Unsafe and Unlawful Signs
- 84.19 Revocation of Permit
- 84.20 Penalties for Offenses
- 84.21 Severability
- 84.22 Interpretation
- 84.23 Short Title
- 84.24 When Effective

CHAPTER 1

GENERAL PROVISIONS

§1.1 Title

This codification of enactments whether formerly ordinances or local laws are and are intended to be a complete compilation of all ordinances and local laws of a general nature formerly effective in the Village of Gowanda, in the Counties of Cattaraugus and Erie and State of New York and are and shall be the "Village of Gowanda Municipal Code" and is hereby enacted as a local law pursuant to the authority contained in Subdivision 3 of § 20 of the Municipal Home Rule Law.*

§1.2 Definitions

- A. When used in this Code, unless otherwise expressly stated or unless the context or subject matter otherwise requires:
1. "Assessor" or "Village Assessor" means the Assessor of the Village of Gowanda, New York.
 2. "Board of Appeals" or "Zoning Board of Appeals" means the Board of Appeals of the Village of Gowanda, New York, appointed in accordance with the provisions of Chapter 30 of this Code and Section 7-712 of the Village Law.
 3. "Board of Trustees," "Village Board" or "Board" means the Board of Trustees of the Village of Gowanda, New York.
 4. "Building Inspector" means the enforcement officer of the New York State Building Construction Code, Zoning and other related Chapters as designated in this Municipal Code.
 5. "Code" unless otherwise specifically qualified means the Village of Gowanda Municipal Code.
 6. "County" unless otherwise qualified means the County of Erie or the County of Cattaraugus in the State of New York for that portion of the Village in each such County.
 7. "County Clerk" unless otherwise qualified means the County Clerk of the County of Erie or the County of Cattaraugus for that portion of the Village in each such County.
 8. "Fire Chief" or "Chief of the Fire Department" means the Fire Chief of the Village of Gowanda, New York.
 9. "Fire Marshall" means the enforcement officer of Chapter 55 entitled "Fire Prevention" of this Municipal Code.
 10. "Health Officer" means the official who serves as the Health Officer of the Village of Gowanda.

*Certain Chapter numbers have been reserved for future enactments.

11. "Mayor" means the Mayor of the Village of Gowanda, New York.
 12. "Municipal Code" means the Village of Gowanda, Municipal Code.
 13. "Owner" means a person who has the legal title, alone or with other, or exercises dominion or control over property both real and personal.
 14. "Person" means one or more persons of either sex, natural person, corporations, partnerships, associations, joint stock companies, societies and all other entities capable of being sued.
 15. "Police Chief" or "Chief of Police" means the Police Chief of the Village of Gowanda, New York.
 16. "Registrar of Vital Statistics" means the Registrar of Vital Statistics of the Village of Gowanda, New York.
 17. "Sealer of Weights and Measures" means the Sealer of Weights and Measures of the County or the County of Cattaraugus for that portion of the Village in each such County.
 18. "Superintendent of Public Works" means Village Official in charge of the Village Department of Public Works in the Village of Gowanda, New York.
 19. "Trustee" means a Trustee of the Village of Gowanda, New York.
 20. "Village" means the Village of Gowanda, New York.
 21. "Village Attorney" or "Attorney" means the Village Attorney of the Village of Gowanda, New York.
 22. "Village Board" means the Board of Trustees of the Village of Gowanda, New York.
 23. "Village Clerk" or "Clerk" means the Village Clerk-Treasurer of the Village of Gowanda, New York.
 24. "Village Engineer" means the Engineer or Engineering firm retained by the Village of Gowanda, New York, to serve in the capacity of engineer or consulting engineer to this Village.
 25. "Village Justice" means the Town Justice of either the Town of Persia in Cattaraugus County or the Town of Collins in Erie County who has jurisdiction of any violations under this Code or any other provision of law committed in the Village of Gowanda, New York.
 26. "Village Treasurer" means the Village Clerk-Treasurer of the Village of Gowanda, New York.
- B. All other words in this Code and not otherwise specifically defined shall be construed in the manner that they are normally used unless the context or subject matter requires otherwise; but words that have acquired a technical meaning in law and are so used shall be construed and understood in accordance with such meaning.

§1.3 Rules of Construction

1. Words used in the present tense include the future tense.
2. The singular number includes the plural.
3. A word importing the masculine general only shall also be construed to include females, corporations, partnerships, associations, joint stock companies, societies and all other entities capable of being sued.

§1.4 Repeal of Prior Ordinances and Local Laws

All ordinances and local laws of a general nature which were heretofore in existence in the Village of Gowanda, New York before the adoption of this Code are hereby repealed. The repeal of all prior ordinances and local laws shall not affect any punishment or penalty incurred, nor shall it have any effect on existing litigation and it shall not operate as an abatement of any action or proceeding now pending or which may be brought by virtue of the ordinance or local law or part thereof so repealed for any violation or act committed prior to the effective date of the repeal unless specifically abated.

§1.5 Repeal of Chapters Contained in the Code

- A. The repeal of a Chapter, in whole or in part, contained in this Code, shall not revive any prior ordinance or local law heretofore repealed.
- B. The repeal of any Chapter, in whole or in part, contained in this Code shall not affect any punishment or penalty incurred, nor shall it have any effect on existing litigation and it shall not operate as an abatement of any action or proceeding nor pending or which may be brought by virtue of the Chapter or part thereof so repealed for any violation or act committed prior to the effective date of the repeal unless specifically abated.

§1.6 Unconstitutionality or Illegality

If any Chapter, clause, sentence, paragraph, word, section or part of this Code, shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the Chapter, clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§1.7 Unlawful Alteration of Code

It shall be unlawful for any person to willfully misrepresent the provisions of this Code by altering or changing any of the provisions herein, inserting or deleting pages, or by any other manner whatsoever.

§1.8 Annotations and Material Contained in Brackets

Any material contained in brackets shall not be deemed to be a part of this Code. Such material contained herein is intended to show the adoption date, effective date and comments on any changes. Likewise, any commentaries, footnotes, cross references, citations of authority or other annotations shall not be deemed a part of this Code but are inserted editorially solely to assist in the use and interpretation of this Code.

§1.9 Conflict with Other Provisions

Wherever the requirements of any Chapter or portion thereof are at variance with the requirements of any other lawfully adopted rule, regulation, Chapter or other enactment, the most restrictive or that imposing the higher standards, shall govern unless a contrary intent is expressly stated.

§1.10 Penalty When Not Otherwise Prescribed

- A. Where no specific penalty is prescribed in any Chapter contained in this Code, or in any other provision of law,* for any act which is prohibited or for the failure to do any act which is required and is made or declared to be unlawful, the violation thereof shall constitute a violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed two hundred fifty dollars (\$250.00).
- B. In all cases the Board of Trustees may enforce obedience of any provisions of this Code by injunction.

§1.15 Interpretation

The provisions of this Code shall be liberally construed in order to effectuate the purposes for which this Code and the Chapters contained herein are enacted.

*For traffic violations, see V & T L §§ 1880, 1801, 1180(f).

References:

Application of Gen Const L to Village legislative acts. Gen Const L §110. Village of Bronxville v. Francis, 206 Misc 339, mod. On the other grds, 1 AD2d 236, affd 1 NY2d 839.

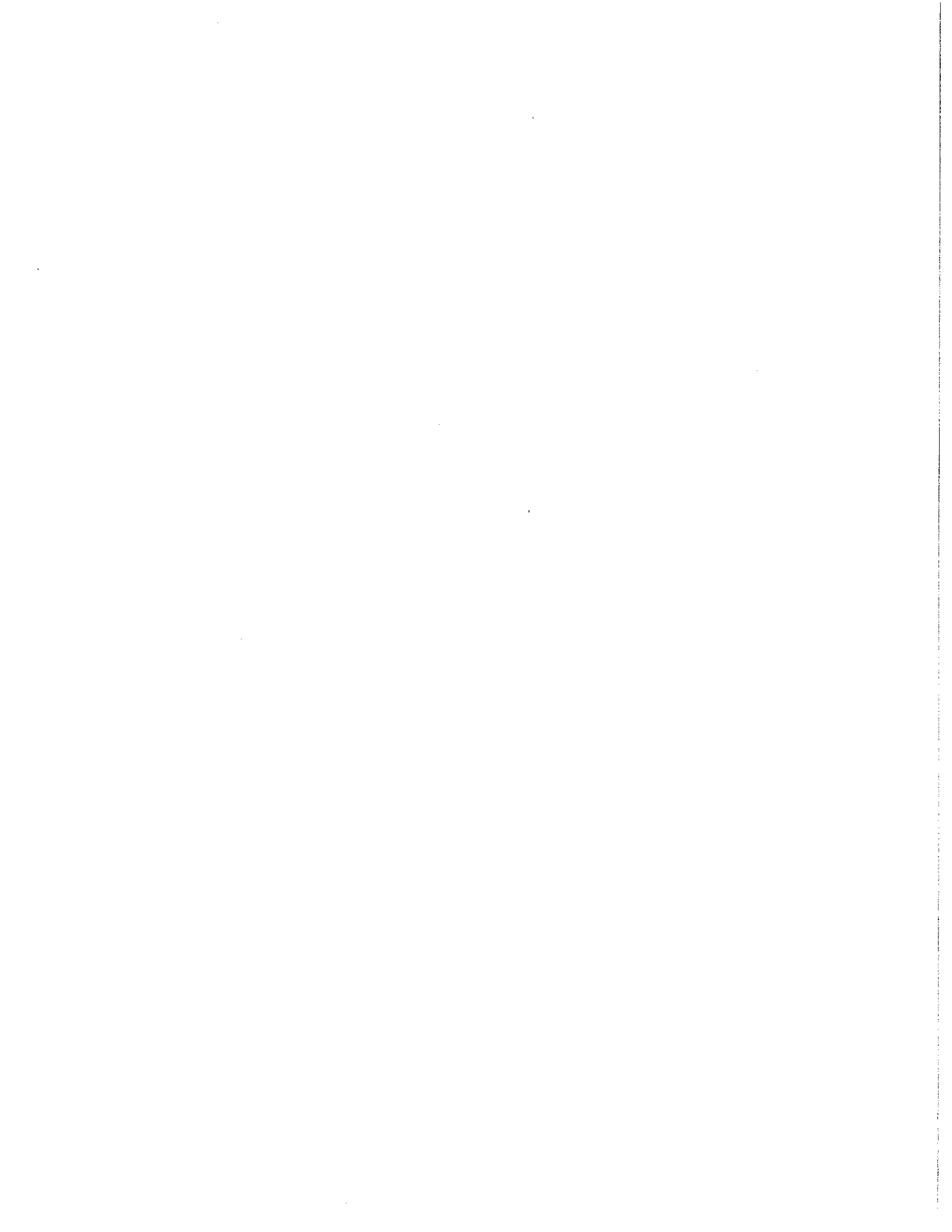
Authority to enact ordinances has been removed from Village Law. Chapters 1028 and 1029 of the Laws of 1974, eff. Sept 1, 1974. Cf. Stat Loc Govt § which grants to all local governments "the power to adopt . . . ordinances . . ."

Meaning of terms. Gen Constr L §§ 10-61.

Offenses and violations defined. Penal L § 10.00.

Penalties. Cumulative penalties prohibited. Village of Mill Neck v. Fondal, 39 AD2d 549 (Case No. 8); People v. Belary Imp. Corp., 34 NY2d 788 aff'g 77 Misc 2d 797.

Repeal, effect of. Gen Const L §90, §92, §93, effect on references. Gen Const L § 94, substantial re-enactment, construction and effect; construed as continuation. Gen Const L §95, title and head notes. Gen Const L § 95, title and head notes. Gen Const L §81.



CHAPTER 2

CONTINUITY OF GOVERNMENT

§2.1 Intent

The New York State Defense Emergency Act, in section twenty-nine –a thereof, authorizes political subdivisions of the state to provide for the continuity of their governments in the event of an actual or imminent attack upon the United States by an enemy or foreign nation. The General Municipal Law, in section sixty thereof, authorized political subdivision to provide for the continuity of their governments in the event of other public disasters, catastrophes or emergencies. Based on the authority contained in such laws this Chapter is adopted so that on such occasions the government of the Village of Gowanda, New York may continue to function properly and efficiently under emergency circumstances.

§2.2 Definitions

As used in this Chapter the following terms shall mean and include:

- A. "Attack" shall mean any attack, actual or imminent, or series of attacks by an enemy or foreign nation upon the United States causing, or which may cause, substantial damage or injury to civilian property or person in the United States in any manner by sabotage or by the use of bombs, shell fire, or nuclear, radiological, chemical, bacteriological or biological means or other weapons or processes.
- B. "Public disaster" shall mean a disaster, catastrophe or emergency, actual or imminent, of such unusual proportions or extent that (1) a substantial number of the residents of the Village of Gowanda, either sustain injury, become ill, are infected with disease, have their lives imperiled, are killed or die as a result of injury, disease or exposure or the property of a substantial number of such residents is imperiled, damaged or destroyed, and (2) it is necessary and essential in the interest of public safety, health and welfare that the continuity of the government of the Village of Gowanda be assured in order that it be enabled to function properly and efficiently and to exercise its essential powers in meeting emergency conditions. Such disasters, catastrophes and emergencies may include, but shall not be limited to, conflagrations, explosions, earthquakes or other convulsions of nature, floods, tidal waves, pestilence, riots, insurrections, storms, prolonged failure of electric power or essential transportation services, or any incident or occurrence which causes or threatens to cause danger to life, health or property from exposure to noxious materials or radiation.

- C. "Duly authorized deputy" shall mean a person authorized to perform all the powers and duties of a public office in the even the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer, where such authorization is provided pursuant to the provisions of any general, special or local law other than this Chapter.
- D. "Emergency interim successor" shall mean a person designated pursuant to this Chapter for possible temporary succession to the powers and duties, but not the office, of a Village officer in the event that neither such officer nor any duly authorized deputy is able, due to death, absence from the Village, or other physical, mental or legal reasons, to perform the powers and duties of the office.

§2.3 Designation, Status, Qualifications and Terms of Designation of Emergency Interim Successors

A. Elective Officers:

Within thirty (30) days following the effective date of this Chapter and thereafter within thirty (30) days after first entering upon the duties of this office, each elective officer shall, in addition to any duly authorized deputy, designate such number of emergency interim successors to the powers and duties of his office and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three (3) duly authorized deputies or emergency interim successors, or combination thereof, to perform the powers and duties of the office.

B. Appointment Officers:

Each officer or body of officers empowered by law to appoint offices shall within the time specified in Subdivision A of this Section, in addition to any duly authorized deputy, designate for each such appointive officer such number of emergency interim successors to such officers and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three (3) duly authorized deputies or emergency interim successors or combination thereof, for each such officer. Where such a body of officers shall review and, as necessary, revise the previous designations of emergency interim successors by such board within thirty (30) days after a new member elected or appointed to such body of officers first enters upon the duties of his office as a member of such body of officers.

C. Review of Designations:

The incumbent in the case of those elective officers specified in Subdivision A of this Section and the appointing officer or body of officers specified in Subdivision B of this Section shall from time to time review and, as necessary, promptly revise the designations of emergency interim successors to insure that at all times there

are at least three (3) duly authorized deputies or emergency interim successors, or combination thereof for each elective and appointive officer of the Village.

D. Qualifications:

No person shall be designated to, nor serve as, an emergency interim successor unless he is legally qualified to hold the office of the person whose powers and duties he is designated to succeed.

E. Status of Emergency Interim Successor:

A person designated as an emergency interim successor shall hold that designation at the pleasure of the designator and such a designation shall remain effective until replaced by another by the authorized designator.

F. Compensation:

An emergency interim successor shall serve without salary, unless otherwise provided by this Chapter. He shall, however, be entitled to reimbursement for actual expenses necessarily incurred in the performance of his powers and duties.

§2.4 Assumption of Powers and Duties of Officer by Emergency Interim Successor:

If, in the event of an attack or a public disaster, an officer described in Subdivision A or Subdivision B of 2.3 of this Chapter or his duly authorized deputy, if any, is unable, due to death, absence from the Village, or other physical, mental or legal reasons, to perform the powers and duties of this office, the emergency interim successor of such officer highest in rank in order of succession who is able to perform the powers and duties of the office shall, except of the power and duty to discharge or replace duly authorized deputies and emergency interim successors of such officer, perform the powers and duties of such officers. An emergency interim successor shall perform such powers and duties only until such time as the lawful incumbent officer or his duly authorized deputy, if any, or an emergency interim successor higher in rank in order of succession resumes the office or undertakes the performance of the powers and duties of the office, as the case may be, or until where an actual vacancy exists, a successor is duly elected or appointed to fill such vacancy and qualifies as provided by law.

§2.5 Recording and Publication of Designations:

The name, address and rank in order of succession of each duly authorized deputy and emergency interim successor shall be filed with the Village Clerk and each designation, replacement, or change in order of succession of any emergency interim successor shall become effective when the designator files with such Clerk the successor's name, address and rank in order of succession. Such Clerk shall keep

an up-to-date file of all such data regarding duly authorized deputies and emergency interim successors and the same shall be open to public inspection. The Clerk shall notify in writing, each designated person of the filing of his name as an emergency interim successor and his rank in order of succession and also shall notify in writing any person previously designated who is replaced or whose place in order of succession is changed.

§2.6 Qualification for Taking Office:

At the time of their designation, or as soon thereafter as possible, emergency interim successors shall take such oath and do such other things, if any, as may be required to qualify them to perform the powers and duties of the office to which they may succeed.

§2.7 Quorum and Vote Requirements:

In the event of an attack or a public disaster the Mayor of the Board of Trustees, or his duly authorized deputy or emergency interim successor performing his powers and duties, may suspend quorum requirements for the Board of Trustees. If quorum requirements are suspended, any local law, ordinance, resolution or other action requiring enactment, adoption or approval by an affirmative vote of a specified proportion of members may be enacted, adopted or approved by the affirmative vote of the specified proportion of those voting thereon.

Authority: Unconsol L § 9134-a; Gen Mun L § 60

CHAPTER 3

DEFENSE AND INDEMINIFICATION OF MUNICIPAL OFFICIALS AND EMPLOYEES

Pursuant to the provisions of Section 18 of the Public Officers Law of the State of New York, the Board of Trustees of the Village of Gowanda, New York, hereby agrees to be held liable for cost incurred under the provisions of such section, by conferring upon the officers and employees of such Village the benefits of Section 18 of such law.

HISTORICAL NOTE

This Chapter was enacted by Local Law #4 of 1981, which was duly passed by the Village of Board on September 15, 1981.

Supp. #1, March 22, 1982

CHAPTER 4

CODE OF ETHICS

§4.1 Purpose:

Pursuant to the provisions of Section eight hundred six of the General Municipal Law, the Board of Trustees of Gowanda recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this local law to promulgate these rules of ethical conduct for the officers and employees of the Village of Gowanda. These rules shall serve as a guide for official conduct of the officers and employees of the Village of Gowanda. The rules of ethical conduct of this local law as adopted, shall not conflict with, but shall be in addition to any prohibition of article eighteen of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§4.2 Definitions:

- A. "Municipal officer or employee" means an officer or employee of the Village of Gowanda whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.
- B. "Interest" means a pecuniary or material benefit accruing to a municipal officer or employee unless the context otherwise requires.

§4.3 Standards of Conduct:

Every officer or employee of the Village of Gowanda shall be subject to and abide by the following standards of conduct:

- A. Gifts: He shall not directly or indirectly, solicit any gift; or accept or receive any gift having a value of twenty-five dollars or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.

- B. Confidential Information: He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Representation Before One's Own Agency: He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
- D. Representation Before Any Agency for a Contingent Fee: He shall not receive, or enter into any agreement, express implied for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provide that this paragraph shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
- E. Investments in Conflict with Official Duties: He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction, which creates a conflict with his official duties.
- F. Private Employment: He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- G. Future Employment: He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Village of Gowanda in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

§4.4 Personal Claim Not Prohibited:

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Village of Gowanda, or any agency thereof, on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

§4.5 Distribution of Code of Ethics:

The Mayor of the Village of Gowanda shall cause a copy of this code of ethics to be distributed to every officer and employee of the Village within thirty (30) days after the effective date of this local law. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.

HISTORICAL NOTE

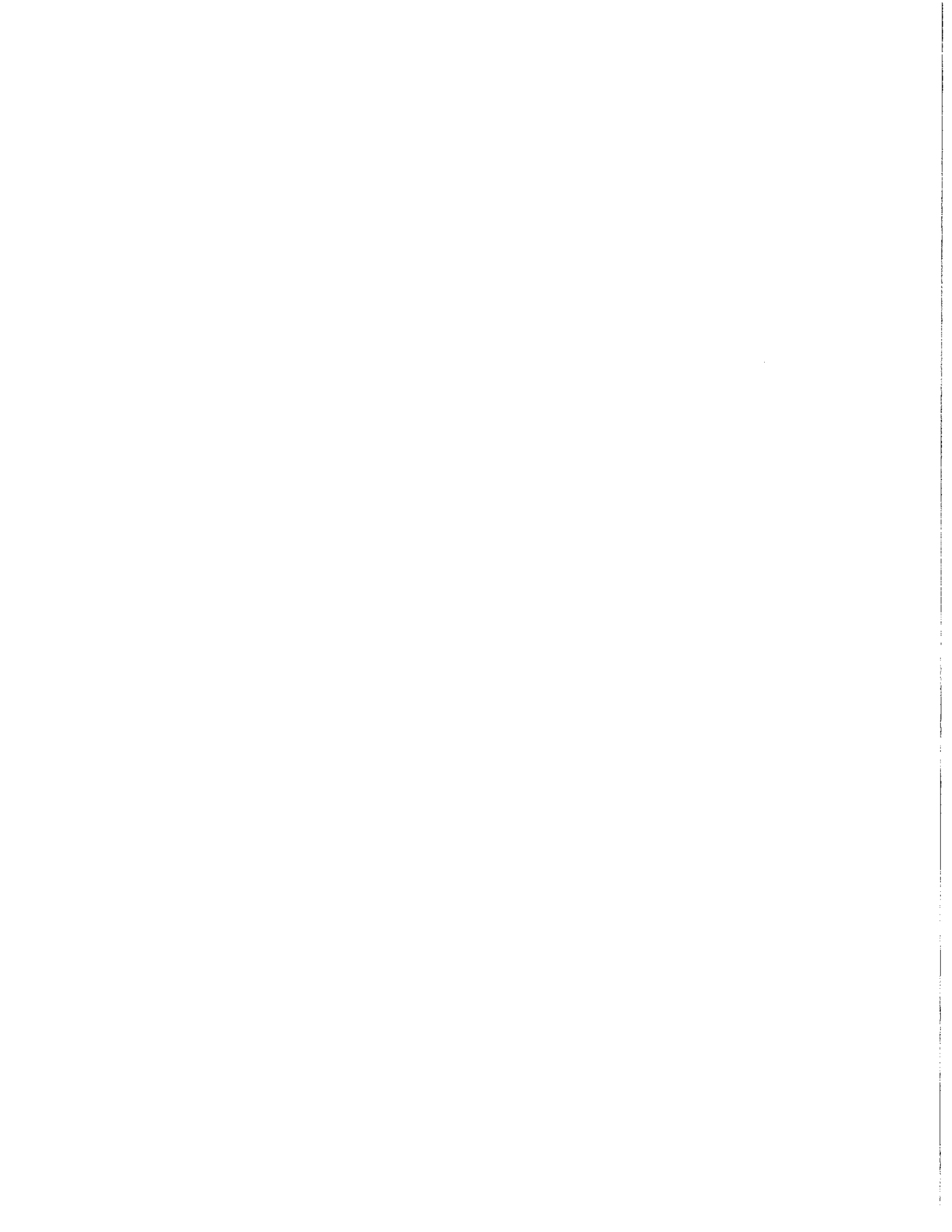
This Chapter is derived from Local Law #2 of the year 1970 enacted by the Village Board on December 7, 1970, filed in the Office of the Secretary of State December 11, 1970 and effective immediately.

References:

Authority to enact. Gen Mun L § 806 (1).

Conflicts of interest of municipal officers and employees.
Gen Mun L Act 18, §§ 800 – 809.

Filing amendments within 30 days with State Compt required.
Gen Mun L § 806(3)[a].



CHAPTER 6

RECREATION COMMISSION

§6.1 Establishment of Recreation Commission

The Recreation Commission shall consist of seven (7) members who shall be chosen from the Village of Gowanda and neighboring communities who participate in the Gowanda Recreation Program. The term of office shall be for three (3) years except that the members of such commission first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter. All appointments to such commission shall be made by the Mayor.

6.1.1 Organization

They shall meet monthly and organize annually by electing one of their members as a chairperson and such other officers as may be necessary. The Recreation Commission shall have the power to adopt bylaws, rules and regulations for the proper conduct of public recreation for the village. Said commission is subject to all provisions of Open Meeting Laws.

6.1.2 General Powers

The Recreation Commission shall plan for and provide recreation programs for residents of the Village of Gowanda and such neighboring communities that should choose to participate in the program by contributing to the funding of such program.

6.1.3 Recreation Director

The Recreation Commission shall have the power to recommend the appointment of a Recreation Director and other personnel and volunteers to the Village of Gowanda Board of Trustees for their consideration. Said recommendations must be approved by the Board of Trustees of the Village of Gowanda.

6.1.4 Annual Budget; Gifts

The Recreation Commission shall submit a budget request to the Village Board annually for approval and adoption. The Recreation Commission may also solicit or receive gifts or bequests of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds or other recreational uses.

6.1.5 Reports

The Recreation Commission shall make full and complete monthly and annual reports to the Village Board of Trustees and other reports from time to time as requested. They shall keep a record of minutes from Recreation Commission meetings and said minutes shall be turned in to the Village Clerk within ten (10) days from date of meeting to be kept on file at the village hall.

6.1.6 This Chapter 6.0 may be amended by resolution of the Board of Trustees in accordance with applicable law and procedure.

CHAPTER 7

PRIOR WRITTEN NOTICE LAW

§7.1 Title

This Chapter shall be known as the “Prior Written Notice of Defective Conditions Law of the Village of Gowanda, New York.”

§7.2 Legislative Declaration

Where claims for bodily injury or damage to property are asserted against the Village arising out of alleged defective conditions of property owned or constructed by or in the care, custody or control of the Village, adequate prior notice to the Village of any such conditions is of substantial importance to allow the Village the opportunity to investigate and correct such conditions, if found to exist. Whether the Village has received actual or constructive notice of such alleged defective conditions is often a question of fact which can lead to uncertainty and possible unwarranted finding of liability against the Village. To assure that the Village receives actual prior notice of an alleged unsafe or defective condition and is able to respond in a prompt and reasonable manner, such prior notice shall be in writing. It is the purpose of this Chapter to require that notice of unsafe and defective conditions of Village property be given to the Village by prior written notice actually received by the Village.

§7.3 Written Notice of Defective Condition Required for Injuries on Highways and Village Property

No civil action shall be maintained against the Village of Gowanda for damages or injuries to person or property sustained by reason of any highway, bridge, culvert or any other property owned by the Village of Gowanda or any property owned by an improvement district, being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert or any other property owned by the Village of Gowanda, was actually given to the Village Clerk of the Village of Gowanda and that there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Village of Gowanda, unless written notice thereof, specifying the particular place, was actually given to the Village Clerk of the Village of Gowanda and there as a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§7.4 Prior Written Notice Required

No civil action shall be maintained against the Village or against the Village's officers or employees for personal injury, including death or damage to property related to, caused by, resulting from, arising out of any property owned or constructed by the Village or involving property in the care, custody or control of the Village being defective, out of repair, unsafe, dangerous, obstructed or improperly maintained, unless prior to the occurrences of the injury or damage, the Village shall have been given actual written notice of the alleged conditions complained of and shall have failed or neglected within a reasonable time after such written notice to repair or remove the condition.

§7.5 Notice; Contents

The notice required by this Chapter shall include the following:

1. The full name and address of the claimant;
2. The particular property of the Village and its location claimed to be defective, out of repair, unsafe, dangerous or obstructed;
3. The time such condition was first observed or made known to the claimant;
4. A statement of the particulars in which the property is defective, out of repair, unsafe, dangerous or obstructed.

§7.6 Service of Notice

The written notice provided for by this Chapter shall be served by personal service within the Village of Gowanda upon the Village Clerk.

§7.7 Record of Notice

1. The Village officers shall promptly transmit to the Village Clerk all written notices received by them pursuant to this Chapter.
2. The Village Clerk shall keep a record in a separate book of all written notices received pursuant to this Chapter.

§7.8 Repeal of Existing Requirements Not Intended

Nothing contained in this Chapter shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these classes of actions but, on the contrary, shall be held to be additional requirements to the right to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the Village and/or any of its improvement districts any greater duty or obligation otherwise imposed by law.

CHAPTER 12

BINGO

§12.1 Purpose

The purpose of this Chapter is to permit the operation of the game of bingo by authorized organizations in the Village of Gowanda pursuant to Article One, Section Nine of the Constitution of the State of New York and is implemented by the State Bingo Control Law and the Bingo Licensing Law.

§12.2 Right to Conduct Game of Bingo

It shall be lawful for any authorized organization, as defined in §476 of Article 14-H of the General Municipal Law of the State of New York, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Village of Gowanda, New York, subject to the provisions of this Chapter, Article 14-H of the General Municipal Law, Article 19-B of the Executive Law and any amendments to said laws.

§12.3 Restrictions Upon Conduct of Bingo Games*

The conduct of bingo games authorized by this Chapter shall be subject to the following restrictions:

1. No person, firm, association, corporation or organization other than a licensee under the provisions of Article 14-H of the General Municipal Law, shall conduct such game or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect.
2. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.
3. No authorized organization licensed under the provisions of Article 14-H of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law or from another authorized organization.
4. The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.
5. No prize shall exceed the sum or value of two hundred fifty dollars (\$250) in any single game of bingo.

*Gen Mun L §479

6. No series of prizes on any one bingo occasion shall aggregate more than one thousand dollars (\$1,000).
7. No person except a bona fide member of any such organization shall participate in the management or operation of such game.
8. No person shall receive any remuneration for participate in the management or operation of any game of bingo.
9. 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.
10. Limited period bingo shall be conducted in accordance with the provisions of Article 14-H of the General Municipal Law and the rules and regulations of the State Racing and Wagering Board\.*

§12.4 Conduct of Games on Sunday

Games of bingo as authorized under and subject to the provisions of §12.2 of this Chapter are hereby authorized to be conducted on the first day of the week, commonly known and designated as Sunday, provided that the license issued for the holding, operating and conducting of such games on such Sundays shall so specify.

§12.5 Delegation of Authority to Village Clerk

The Village Clerk is hereby designated to exercise all of the authority granted to the Board of Trustees under §498 of the General Municipal Law, in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings, the supervision of the operation of the games and the collection and transmission of fees.

Authority: Gen Mun L Art 14-H

*See Exec L §432(1)

CHAPTER 13

GAMES OF CHANCE

§13.1 Purpose

The purpose of this Chapter is to facilitate the lawful conduct by authorized organizations of certain fund raising activities for the promotion of bona fide charitable, educational and other worthy causes and undertakings as specified in the Games of Chance Licensing Law of the State of New York.

§13.2 Definitions

The words and terms used in this Chapter shall have the same meanings as are ascribed to such words and terms in Article 9-A of the General Municipal Law, as the same shall have been or may from time to time be amended unless otherwise provided herein or unless the context hereof requires a different meaning.

§13.3 Games of Chance Authorized

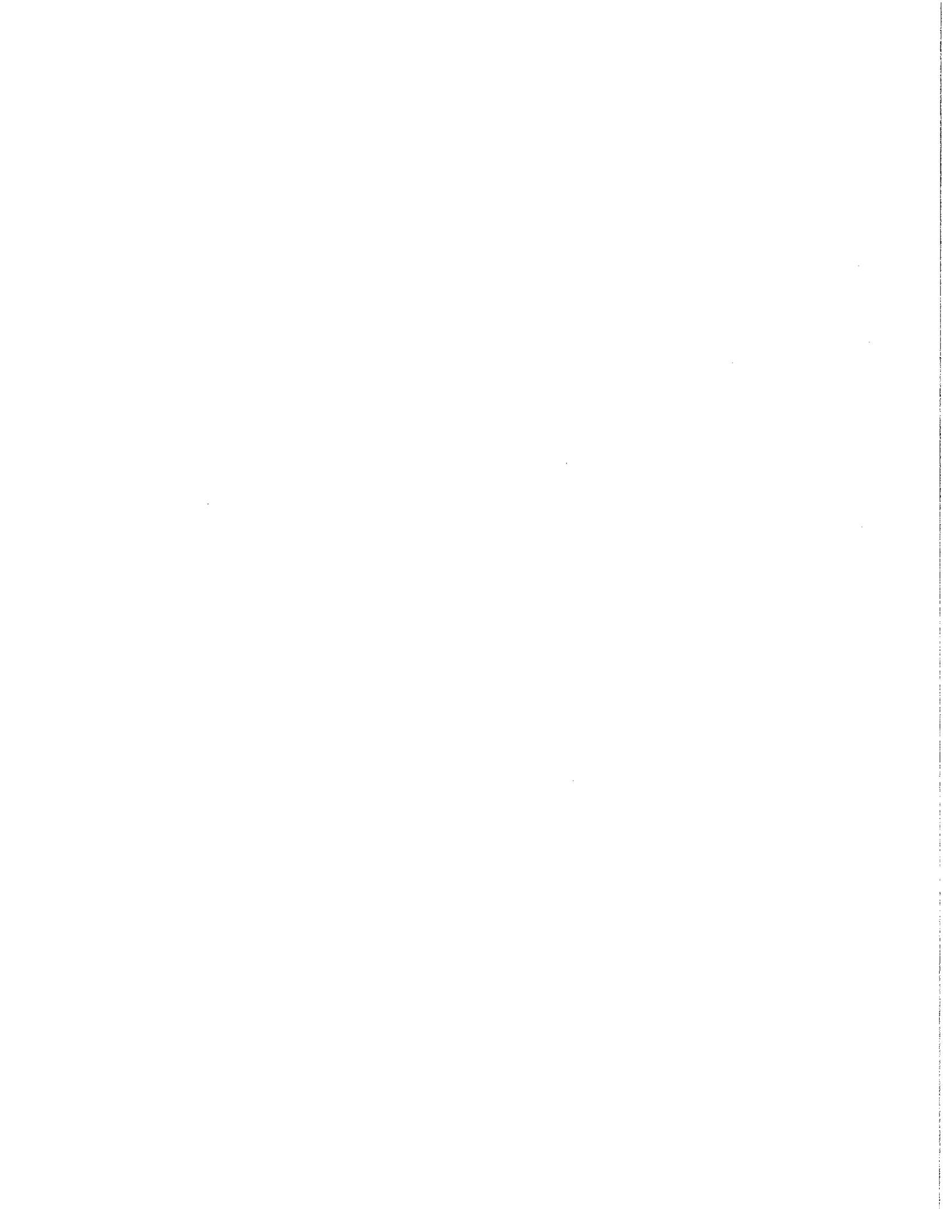
It shall be level for any authorized organization, upon obtaining the required license from the Village Clerk, to conduct games of chance within the territorial limits of the Village of Gowanda, New York, subject to the provisions of this Chapter and of Article 9-A of the General Municipal Law of the State of New York as such provisions may be amended and to applicable rules and regulations of the New York State Racing and Wagering Board.

§13.4 Conduct of Games on Sunday

Games of Chance may be conducted on Sundays only between the hours of noon and midnight except as otherwise provided in Article 9-A of the General Municipal Law.

HISTORICAL NOTE

This Chapter was adopted by the Board of Trustees of the Village of Gowanda by Local Law #1 of the Year 1988 on October 18, 1988; effective immediately upon filing with the Secretary of State, following is approval by a majority of the qualified voters of the Village of Gowanda on December 19, 1988.



CHAPTER 16

LICENSING OF BUSINESSES AND OCCUPATIONS

ARTICLE I GENERAL PROVISIONS

§16.1 Scope of Article

This Article shall govern the licensing procedures of any business, trade, occupation, calling or profession carried on within the Village of Gowanda for which a license is required unless the procedures are otherwise required.

§16.2 General Provisions for the Issuance of Licenses*

- A. Additional limitations and conditions: Upon granting of any license or permit by the Licensing Officer, the Licensing Officer may impose, in addition to those imposed by this Municipal Code, such further limitation and conditions as the Licensing Officer may deem necessary for the preservation of peace and good order, the suppression of vice, the benefit of trade and the preservation and protection of public works, provided such additional limitations and conditions are not contrary to any provisions of this Municipal Code or the laws of New York State.
- B. Bond: Such limitations and conditions shall include the right to require a bond indemnifying the Village of Gowanda against all loss or damage which is may suffer or be caused by reason of any act committed or admitted, or other thing done as a result of the issuing of such permit or license.
- C. Approval of bond: All such bonds shall be approved by the Licensing Officer as to the amount and by the Village Attorney as to form and the sufficiency of the sureties.
- D. Filing of copies: The Village Clerk shall keep a copy of all licenses or permits granted by the Licensing Officer.

§16.3 Application and Issuance of Licenses and Permits

- A. Filing applications: All applications for licenses and permits, unless otherwise provided in this Municipal Code, shall be presented to the Village Clerk.
- B. Contents: Every application shall be signed by the applicant and shall contain a statement of the fact required for the various licenses and permits.

*Mayor is the Licensing Officer unless he designates another. Vil L § 4-400(1)[m].

- C. Issuance of License: Such licenses shall be issued by the Licensing Officer to such persons as he shall deem fit and proper for such trade, occupation, calling or profession but any of such licenses shall be refused for any such specified use or purpose which shall, in the judgment of the Licensing Officer, be likely to disturb the safety, health, comfort and general welfare of the inhabitants of the Village, or be immoral or improper. Every such license shall be countersigned by the Village Clerk, who shall keep a record thereof and of the fee paid therefore at a meeting thereof; and the same may be granted or refused by the Board of Trustees.
- D. Numbering and dating of license: Every license so issued shall be dated and numbered, and shall also clearly state the object for which it is granted.

§16.4 Revocation, Suspension and Conditions of License

All licenses issued by the Licensing Officer may be suspended or revoked for cause and shall not be transferable except by consent of the Licensing Officer, and shall be issued to and accepted by the licensee on the express condition that it may be suspended by the Licensing Officer and revoked by the Board of Trustees. If, at any time in the judgment of either, the licensee proves himself unfit to hold it or the places licensed are not being conducted in a proper and orderly manner, the Licensing Officer may suspend any such license until the next meeting of the Board of Trustees and thereupon the said license may be revoked or confirmed by the Board of Trustees or it may reinstate any such license. The action taken by the Board of Trustees shall be final.

§16.5 Display of License

Every license shall be carried upon the licensee's person or if issued for a place of business shall be kept posted conspicuously therein.

§16.6 Prepayment of Fee and Record of Issuance

- A. Prepayment of fee: No licenses shall be issued until the fee therefore, as determined by the Board of Trustees, shall have been paid. If a license be revoked, the Board of Trustees in its discretion may repay to the licensee so much of the fee as it deems appropriate but shall not be more than the proportionate of the unexpired portion of the term.
- B. Record of licenses: The Village Clerk shall keep a record of each license issued showing its purpose, the date of its issue and expiration and the name and address of the licensee.

ARTICLE II AMUSEMENTS

§16.21 Circuses, Carnivals, Exhibitions and Shows

No person shall conduct, exhibit or cause to be conducted or exhibited any circus, menagerie, outdoor carnival, medicine show, acrobatic exhibition, shooting gallery, show or performance, or any concession or refreshment stand in conjunction therewith without a license as hereinafter provided, except an amateur show, performances or exhibition.

§16.22 Licenses and Fees for Circuses, Carnivals, Exhibitions and Shows

- A. Issuance: The Licensing Officer shall issue all licenses required in 16.21.
- B. Information required: Any person desiring a license shall file a written application therefore with the Village Clerk which shall state:
 - 1. The name and address of the applicant.
 - 2. The period of time for which the license is required.
 - 3. The kind and character of the amusement, exhibition or show.
 - 4. The place where the amusement, exhibition or show is to be conducted.
 - 5. Such other information as may be required by the Licensing Officer.
- C. Fees: For circuses and theatrical representations or public shows of any kind the fee shall be as follows:
 - 1. For every circus or animal or athletic performance fifty dollars (\$50) per day.
 - 2. For a menagerie along twenty-five dollars (\$25) per day.
 - 3. For every temporary exhibition of natural or artificial curiosities or other attractions twenty five dollars (\$25) per day.
 - 4. For every theatrical representation, concert, lecture or public entertainment to which an admission fee is charged not conducted by a non-profit organization and not otherwise provided for twenty five dollars (\$25) per day.
 - 5. For shooting galleries twenty five dollars (\$25). For a short time license for same two dollars (\$2) per day.
 - 6. For merry-go-rounds ten dollars (\$10) per day.

ARTICLE III JUNK YARDS AND JUNK DEALERS

§16.31 Junk Yards

No person shall, without a license therefore, hereafter establish or maintain within the limits of the Village of Gowanda a junk yard, junk shop or other place for the sale, storage or handling of odds and ends such as old metal, wire, rope, rags, bottles, papers, old tires, old automobiles or other vehicles and the parts of same, and similar articles or materials, and no such articles or materials, whether purchase or collected within or brought into this Village shall be stored, sorted, dismantled or processed in this Village except that the same shall be kept from public view either within a substantial wall or fence of sufficient height to conceal the same from view from streets, highways and adjacent property or buildings or within a substantial building and in any case be located at a point not nearer than two hundred (200) feet from any street or highway in this Village and all such articles or materials shall be kept in such manner and condition that they will not constitute a fire hazard or menace to public health or safety.

§16.32 Junk Dealers

No person shall, without a license therefore, hereafter engage in the business of buying and selling or collecting junk such as old metal, wire, rope, rags, bottles, papers, old tires, old automobiles or other vehicles and the parts of same, and similar articles or materials within the limits of the Village of Gowanda; shall not apply to a bona fide charitable or eleemosynary organization which shall first obtain a permit and approval from the Licensing Officer to be exempted from this provision.

§16.33 License Fee

The fee for each license required by §16.1 and §16.32 shall be twenty five (\$25) per day. Each license shall expire on the 31st day of December of each year. In the event the initial license is issued within six (6) months prior to the expiration date, the license fee shall be one half. Renewals shall be obtained on or before the 1st day of January of each year. Such license shall be issued by the Licensing Officer to such person or persons as he shall deem fit and proper. In the event the Licensing Officer shall refuse to issue such license, an appeal from his refusal may be taken by the grieved party to the Board of Trustees at any regular meeting held thereafter.

ARTICLE IV PENALTY

§16.50 Penalty

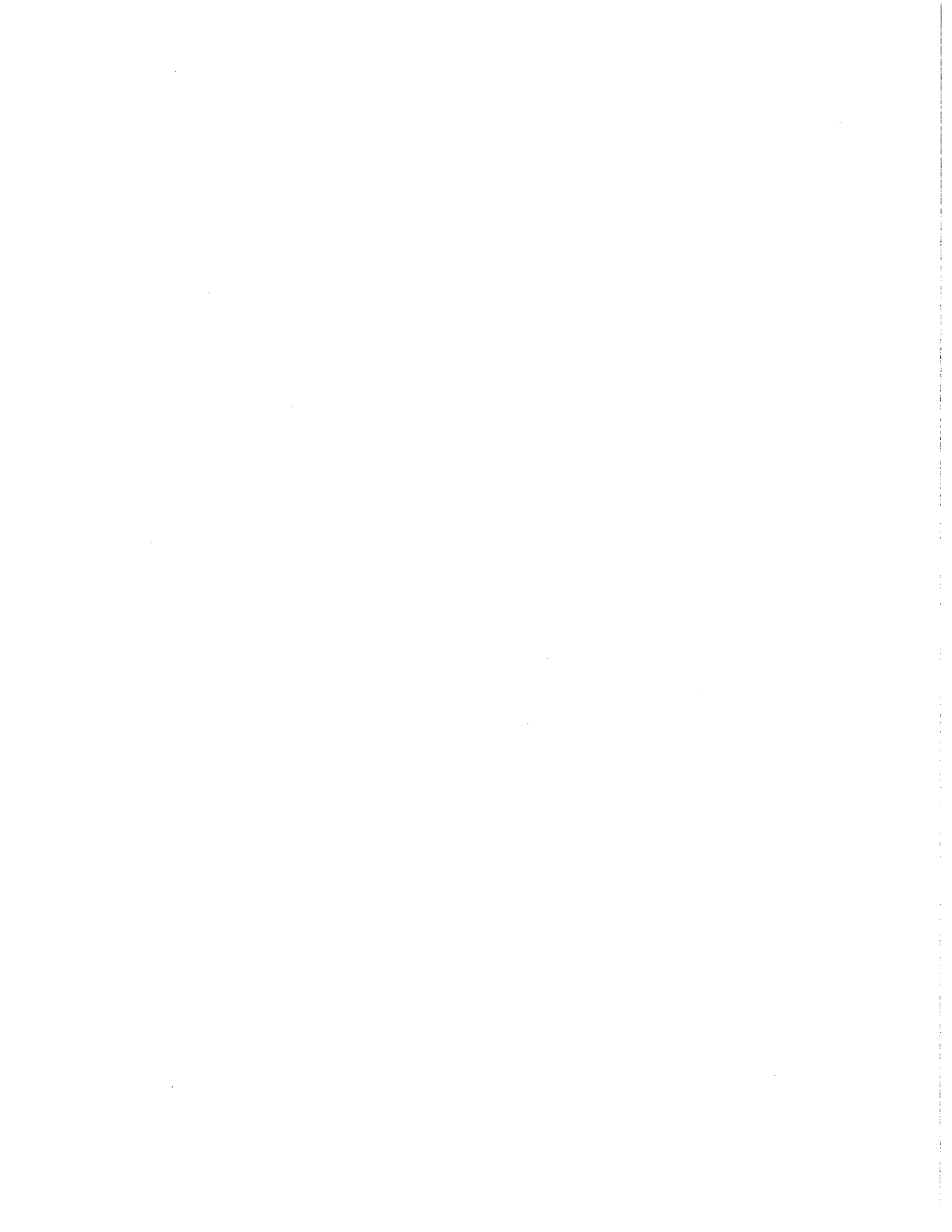
Each violation of any provision of this Chapter shall constitute a violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed two hundred fifty dollars (\$250).

Cross-references:

Ambulances. Chapter 21
Peddlers and Solicitors. Chapter 17
Taxicabs. §23.1

References:

Fees, power to impose. Stat Loc Govt §10(5)
Junk dealers.
 Keeping property in separate piles, Gen Bus L §63.
 Purchasing property from child. Gen Bus L §63-a.
 State licensing provisions. Gen Bus L §60.
Junk yards, automobile, regulation of. Gen Mun L §136.



CHAPTER 17

PEDDLERS AND SOLICITORS

§17.1 Definitions

- A. The terms “Hawker” and “Peddler” as used in this Chapter shall mean and include, except as in hereinafter expressly provided, any person, either principal or agent, who from any public street or public place or by going from house to house or place of business to place of business, on foot or on or from any vehicle, sells or barter, offers for sale or barter, or carries or exposes for sale or barter any goods, wares or merchandise, books, magazines, periodicals or any other item or items of value, except milk, newspapers and food distributed on regular customer routes.
- B. The term “Solicitor” as used in this Chapter shall mean and include any person who goes from place to place or house to house or stands in any street or public place taking or offering to take orders for goods, wares or merchandise, books, magazines, periodicals or any other item or items of value (except newspapers or milk), or for services to be performed in the future, or for making, manufacturing or repairing any article or thing whatsoever for future delivery. The term “solicitor” shall, however, also mean and include any person taking or offering to take orders for goods, wares or merchandise, books, magazines, periodicals or any other item or items of value (except newspapers or milk), or for services to be performed in the future or for making, manufacturing, or repairing any article or thing whatsoever for future delivery at the home or residence of any person who has been solicited prior thereto by telephone, or has responded to any type of advertising media requiring an appointment or consultation or sales presentation in the home or place of residence of such person.
- C. The term “established place of business” as used in this Chapter shall mean and include a building or store in or where the person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits for during regular business hours.

§17.2 Exemptions

- A. Nothing in this Chapter shall be held to apply to any sales:
 - 1. Conducted pursuant to statute or by order of any court.
 - 2. To any person selling personal property at wholesale to dealers in such articles.
 - 3. To persons under the age of eighteen (18) years.
 - 4. To peddling of meats, fish, fruit and farm produce by farmers and persons who produce such commodities.

5. To any honorably discharged member of the armed forces or any other person who has procured a license issued by the County Clerk as provided by Section 32 of the General Business Law of the State of New York.
- B. Non-profit organizations and persons working for such organizations shall also be exempt. However, such organizations shall register annually with the Village Clerk in the event they plan to engage in vending, hawking, peddling or soliciting and shall indicate the type of activities to be undertaken and the time when they will be performed.

§17.3 License Required

It shall be unlawful for any person within the corporate limits of the Village to act as a hawker, peddler or solicitor as herein defined or assist same without first having obtained and paid for, and having in force and effect a license therefore.

§17.4 Application for License

- A. Any person desiring to procure a license as herein provided shall file with the Village Clerk a written application upon a form furnished by the Village Clerk and shall file at the same time satisfactory proof of good character. Such application shall give:
1. The number and kind of vehicle to be used by the applicant in carrying on the business for which the license is desired.
 2. The kind of goods, wares and merchandise he desires to sell or the kind of service he desires to perform.
 3. The method of distribution.
 4. The name, address and age of the applicant.
 5. Whether or not the applicant has been convicted of a misdemeanor or felony and, if so, give date of conviction, nature of offense, penalty imposed and name and address of court.
 6. The name and address of the person, firm or corporation he represents.
 7. The length of time the applicant desires the license.
 8. Such other information as may be required by the Village Board.
- B. If applicable, such application shall be accompanied by a certificate from the Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

§17.5 Bonds, When Required

An application for a license as a solicitor who demands, accepts or receives payment or deposit of money in advance of final delivery, shall also be accompanied by a cash deposit of five thousand dollars (\$5,000) or a five thousand dollar (\$5,000) surety company bond or other bond secured by sufficient collateral, said bond to be approved by the Village Attorney as to form and surety conditioned for making a final delivery of the goods, wares, or merchandise ordered, or services to be performed in accordance with the terms of such order or failing therein, that the advance payment on such order be refunded. Any person aggrieved by the action of any licensed

solicitor shall have the right by action on the bond for the recovery of money or damages, or both. Such bond shall remain in full force, and effect, and in case of a cash deposit, such deposit shall be retained by the Village for a period of ninety (90) days after the expiration of such license, unless sooner released by the Village Board.

§17.6 Issuance of License

- A. Upon the filing of the application, bond and certificate as provided in the preceding section, the Mayor shall, upon approval of such application, issue to the applicant a license as provided in §17.3. A license may be refused if the applicant shall have been convicted of a misdemeanor or felony, which in the judgment of the Mayor renders the applicant unfit or undesirable to carry on the trade or occupation for which the license is sought. The Mayor may also refuse a license to any person who in his judgment shall be an undesirable person or incapable of properly conducting the trade or business for which a license is sought.
- B. Any applicant who has been refused a license by the Mayor may apply to the Village Board, therefore, and the same may be granted or refused by the Village Board, as provided by law.

§17.7 Use of License by Another Person Prohibited

Any holder of any license who permits it to be used by any other person or any person who uses such license granted to any other person shall each be guilty of a misdemeanor.

§17.8 Loss of License

Whenever a license shall be lost or destroyed on the part of the holder or his agent or employee, a duplicate in lieu thereof, under the original application and bond may be issued by the Mayor upon the filing with him by the licensee of an affidavit setting forth the circumstances of the loss, and what, if any, search has been made for its recovery.

§17.9 Contents and Form of License

All licenses shall be issued from a properly bound book with proper reference stubs kept for that purpose, numbered in that order in which they are issued and shall state clearly the kind of vehicle to be used, the kind of goods, wares and merchandise to be sold or service to be rendered, the number of his license, the date of issuance and expiration of the license, fee paid and the name and address of the licensee.

§17.10 Terms of License

Such license shall be for such term as requested by the applicant but shall expire not later than the first day of February next succeeding.

§17.11 Exhibition of License

Every licensee, while exercising his license, shall carry the license with him and shall exhibit the same upon demand.

§17.12 License Fee

The fees for licenses issued under this Chapter shall be as follows:

If a vehicle is used, the license fee for the period commencing on the date when such license is issued and ending on the first day of February next succeeding shall be the sum of fifty dollars (\$50) or a fee of five dollars (\$5) per day if the licensee elects to have a license for a shorter period which license in either case shall include the right of one person and no more to be in attendance on the vehicle. For each additional person operating from the same vehicle, the license fee for a like period shall be the sum of ten dollars (\$10), or a daily fee of two dollars (\$2) per day.

The license fee of any person who does not use or operate a vehicle in connection with such work shall be the sum of ten dollars (\$10) for the period commencing on the said date said license is issued and ending on the first day of February next succeeding or a daily fee of one dollar (\$1) per day. If the application for any license other than a daily license is made after August 1st, in any year, the amount of such fee shall be one half (1/2) of the amount as above stated.

§17.13 Revocation of License

A license issued pursuant to this Chapter may be revoked after a public hearing as provided by law.

§17.14 Prohibited Acts

- A. It shall be unlawful for any person to enter upon private property for the purpose of peddling or so soliciting before the hour of 9:00 am of any day or after the hour of 7:00 pm of any day except upon the invitation of the householder or occupant.
- B. It shall be unlawful for any peddler or solicitor in plying his trade to ring the bell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words: "No Peddlers," "No Solicitors," "No Agents," or other wording, the purpose of which purports to prohibit peddling or soliciting on the premises.
- C. No peddler or solicitor shall peddle, vend or sell his goods or wares within two hundred (200) feet of any place occupied exclusively as a public or private school or for school purposes, nor shall he permit his cart, wagon or vehicle to stand on any public highway within said distance of such school property.

- D. No peddler or solicitor shall falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale. No person shall by any trick or device or by any false representation obtain or attempt to obtain admission to the house or garage of any person or corporation in the Village.
- E. No peddler or solicitor shall blow a horn, ring a bell or use any other noisy device to attract public attention to his wares or shout or cry out his wares.
- F. It shall be unlawful to create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the purpose of selling or exposing for sale any goods, wares or merchandise.
- G. No peddler or solicitor shall represent or state or otherwise indicate that he is not intending to sell or otherwise enter into a contract with any person in the household.
- H. No peddler or solicitor shall, in order to effectuate or assist in any sale or solicitation, represent that he is engaged in contest or in any way attempt to induce a sale or solicitation by appealing to the sympathies of the person so solicited.
- I. Any contract or sale made in violation of Subdivisions D, G or H shall be null and void and of no effect as to the person solicited, and the merchandise delivered shall be forfeited and any sums paid by the person so solicited shall become immediately due and payable jointly and severally by the peddler or solicitor and his principal.

§17.15 Orders

All orders taken by licensed solicitors who demand, accept or receive payment or deposit of money in advance of final delivery, shall be in writing made in duplicate, stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit is paid to the solicitor.

§17.16 Records

It shall be the duty of the Village Clerk to keep a record of all applications and of all licenses granted under the provisions of this Chapter giving the number and date of each license, the fee paid and the date of revocation of all licenses revoked.

§17.20 Penalty

A violation of any provision of this Chapter is hereby declared to be an offense and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250).

Cross Reference:

General provisions for all licenses. Art I, Chapter 16.

References:

Arrest of peddler refusing to produce license. Gen Bus L §34.

False imprisonment, action barred. Gen Bus L §34.

Home solicitation sales. Pers Prop L §425-§430.

Buyer's right to cancel within 3 days. Pers Prop L §427.

Issuing licenses. Mayor is licensing officer unless he designates another Village officer. Vil L §4-400 (1)[m].

License, refusal to produce. Gen Bus L §33.

Penalties for violation of terms. Gen Bus L §34.

Misdemeanor, definition. Penal L § 10.00; §55.10(2)[e].

Municipal regulations not restricted by Article 4 of the Gen Bus L. Gen Bus L §35.

Refusal of defendant to refund down payment after notice of cancellation, resulted in judgment for down payment, \$100 statutory costs and reasonable attorney's fees (\$250) in favor of plaintiff.

DeRouville v. E.F.G. Baby Prods. 67 Misc 2d 508. (Albany City Court)

Affd 69 Misc 2d 252 (County Court), affd 40 AD2d 736.

Veterans

Crippled, exceptions as to licensing. Gen Bus L §35.

Licenses, Gen Bus L §32.

Widow of honorably discharged veteran. Gen Bus L §32.

Violation, definition. Penal L §10.00; §55.10(3).

CHAPTER 21

AMBULANCES

§21.1 Definitions

When used in this Chapter, unless the context or subject matter otherwise requires:

1. "Ambulance" means any privately or publicly owned motor vehicle that is specially designed or constructed, and equipped, and is intended to be used for and is maintained or operated for the transportation of patients, including funeral coaches or hearses which otherwise comply with the provisions of this Chapter.
2. "Attendant" means a trained and/or qualified individual responsible for the operation of an ambulance and the care of the patients whether or not the attendant also serves as driver.
3. "Attendant-driver" means an individual who is qualified as an attendant and a driver.
4. "Driver" means an individual who drives an ambulance.

§21.2 License Required

No person shall operate, maintain or offer for hire in the Village of Gowanda, the services of an ambulance unless such person has obtained a license as hereinafter provided; provided, however, that no such license shall be required in the case of a major catastrophe or emergency with which the licensed ambulances of the Village of Gowanda are insufficient or unable to cope.

§21.3 Application for License

Applications for ambulance licenses hereunder shall be made upon such forms as may be prepared or prescribed by the Licensing Officer and shall contain:

1. The name and address of the applicant and the owner of the ambulance.
2. The trade or other fictitious name, if any, under which the applicant does business and proposes to do business.
3. The training or experience of the applicant in the transportation and care of patients.
4. A description of each ambulance, including the make, model, year of manufacture, motor and chassis number; current state license number; the length of time the ambulance has been in use; and the color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate applicant's ambulance.
5. The location and descriptions of the place or places from which it is intended to operate.

6. Such other information as the Licensing Officer shall deem reasonably necessary to a fair determination of compliance with this Chapter accompanying license fee as hereinafter provided.

§21.4 Standards for Ambulance License

1. The drivers thereof shall be duly licensed chauffeurs who shall have completed an advanced course in first aid as hereinafter described.
2. Such ambulance shall be on call and available twenty-four (24) hours a day.
3. Such ambulance shall have in attendance on each and every call in addition to the driver an attendant who has also completed an advanced course in first aid equivalent to the advanced course in first aid given by the American Red Cross or the United States Bureau of Mines.
4. Such ambulance shall be equipped with an inhaler, first aid equipment, two full size ambulance cots and an invalid chair.
5. A uniform fee schedule for services shall be established and approved by the Board of Trustees for all ambulances licensed in the Village of Gowanda.
6. Such ambulances shall comply with all applicable village, county and state laws, rules and regulations.

§21.5 License Fee; Term

1. The annual license fee shall be twenty-five dollars (\$25) for each ambulance and each license shall expire on the 31st day of December of each year.
2. In case of an ambulance operated by a non-profit organization, no fee shall be charged for a license but all other requirements of this Chapter shall be complied with.

§21.10 Violation and Penalty

A violation of this Chapter shall constitute a violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed two hundred fifty dollars (\$250).

References:

Ambulance service authorized. Gen Mun L §122-b.
Attendants, burn injuries, training for, Pub Health L §2752.
Emergency rescue and first aid squads. Gen Mun L §209-b.
Contracting with another municipality. Gen Mun L §209-b(1)(b)
Penalties. Pub Health L §3006.
Permit from Commissioner of Health of the State of New York required. Pub Health L §§3000, 3004.
Villages contracting for services. Vil L §4-412.
Volunteers
Courses required. Pub Health L §3020.
Immunity from liability. Pub Health L §3021.

CHAPTER 23

TAXICABS

§23.1 Definitions

As used in this Chapter unless the context or subject matter otherwise requires:

1. "Taxicab" shall mean a passenger vehicle or motor vehicle with a seating capacity in the interior thereof of seven (7) or less passengers which is used for the transportation of carrying a person or persons from one place to another either wholly or partly within the Village of Gowanda for pay or hire.
2. "Owner" shall mean and include any person, firm or corporation or association owning and operating one or more taxicabs.

§23.2 Taxicabs to be Licensed

No person shall use any motor vehicle in the conduct of a taxicab business in the Village of Gowanda unless a license issued therefore by the Mayor and countersigned by the Village Clerk and the Village Treasurer shall be in full force and effect.

§23.3 Application for Taxicab Licenses

Application for a taxicab license shall be made to the Mayor by the owner in writing under oath upon forms to be furnished by the Village which shall show:

1. The owner's name and address.
2. The identification number and make of the vehicle.
3. The year manufactured.
4. The New York State License Number attached thereto; together with such other information as the Mayor deems necessary.

If the motor vehicle is found to be in proper condition for the safe transportation of passengers, the Mayor may issue a license for such vehicle.

§23.4 Use of Similar Name Prohibited

The licensing of each motor vehicle shall be subject, however, to the following conditions:

If the owner proposes to operate a taxicab or taxicabs under a corporate or assumed name, such information must be included in his application. If it shall appear from said application for a license that the name intended to be used is so similar to a name or names already in use that it is liable to deceive the public or to create

confusion, or in the event it shall appear that said corporate or assumed name is misleading as to the actual ownership of said taxicab, then and in that event the Mayor is authorized to withhold a license to said applicant or to revoke or suspend the license.

§23.5 Term of Taxicab License; Display Thereof

1. Licenses shall be issued annually for a period beginning June 1st and expiring on May 31st of the following year.
2. Such license shall be placed above the windshield in a conspicuous place where the passengers of such taxi or police may easily locate the same.

§23.6 Renewal of Taxicab Licenses

Applications for renewal of taxicab licenses shall be filed no later than April 15th of each year and if the application for renewal is not made on or prior to said date, the holder will be deemed to have abandoned said license..

§23.7 Fees for Taxicab Licenses

The fee for a taxicab license shall be the sum of fifteen dollars (\$15) for each vehicle a year.

An owner may pay a license fee of thirty-five dollars (\$35) which shall entitle him to licenses for three (3) taxicabs or licenses for additional taxicabs shall be at the rate of ten dollars (\$10) each per year.

§23.8 Taxicab Driver's Qualifications

Any person of good moral character who is not a habitual violator of traffic ordinances and provisions of the Vehicle and Traffic Law with respect to operation of a motor vehicle, who has not been convicted of a crime and who holds a chauffeur's licenses issued by the State of New York shall be eligible for a taxicab driver's license.

§23.9 Taxicab Driver's License

1. Driver's licenses shall be issued by the Mayor who shall give to each licensed driver a card which card shall be carried at all times by said taxicab driver while operating said taxicab in order that it may be shown at any time upon request. This card shall be surrendered upon the expiration, revocation or suspension of the driver's license. Said card shall bear the date of issuance and the date of the expiration of said driver's license. A driver's license may be renewed each year upon payment of the required fee.
2. Any applicant, who shall have been refused a license by the Mayor, may apply to the Board of Trustees therefore at a meeting thereof; and the same may be granted or refused by the Board.

§23.10 Taxicab Driver's Record

Each taxicab driver's license shall provide a space where the Police Department shall enter a record of all convictions to the conduct of such person as a driver and such record shall be given consideration in relation to the renewal, suspension or revocation of the taxicab driver's license.

The erasure or obliteration of any official entry made upon a taxicab driver's license shall be sufficient cause of suspension or revocation of such license.

§23.11 Suspension and Revocation of Licenses

Any license issued may be suspended by the Mayor for cause, subject to review by the Board of Trustees whereupon the license may be revoked or continued by the Board.

§23.12 Transfer of Taxicab License

In the event of the owner of one or more taxicabs shall dispose of his taxicab or taxicabs and obtain a new taxicab or taxicabs, the license for the motor vehicle or vehicles so disposed of may be transferred to the new taxicab or taxicabs upon application and notice to the Mayor and providing the information as set forth in §23.3 of this Chapter by filing same in the Village Clerk's Office and a new license or licenses shall be issued for the new taxicab or taxicabs.

§23.13 Fees for Taxicab Driver's License and Term Thereof

The fee for a taxicab driver's license shall be the sum of ten dollars (\$10) for the first year and any renewal thereof shall be at the rate of five dollars (\$5) per year. The said license shall expire on the 31st day of May of each year.

§23.14 Licenses; Counter Signature and Endorsement

Every license issued pursuant to this Chapter shall be countersigned by the Village Clerk who shall keep a record thereof and the amount of the fee to be paid therefore; and upon presentation of such license to the Village Treasurer signed by the Mayor and countersigned by the Village Clerk, and upon payment of the fee therefore, the Village Treasurer shall endorse thereon his receipt for the license fee. The license shall not take effect until the receipt of the Village Treasurer shall have been endorsed thereon.

§23.15 Penalties

Any person who shall violate any provision of this Chapter shall be punished by a fine not to exceed one hundred dollars (\$100).

Authority: Gen Mun L §181.

References:

Applicability of general licensing provisions. Chapter 16, §16.1

Cross-References:

Destination outside municipality.

City has authority to regulate the transportation of passengers by taxicab to destinations outside the city and prohibiting drivers from refusing such call unless he can find another cab to take the call. *Bakalar v. Lazar*, 71 Misc 2d 683. [NYC]

Driver's moral character.

Refusal to grant taxicab driver's license on grounds of having been adjudicated a youthful offender (grand larceny in connection with theft of an automobile) cannot be sustained. *Spinelli v. Bd of Trustees*, 67 Misc 2d 503.

Insurance limits.

V & T L §370 which require taxicabs to have 10-20-5 minimum insurance, does not prohibit municipality under Gen Mun L §181 to require higher insurance limits as condition of taxicab license. *Folly v. McKneally*, 67 Misc 2d 889. (City of Newburgh)

Limitation of number of licenses permissible. 19 Op St Compt 434, 1963.

Residents, preference or restricting to, prohibited. 19 Op St Compt 384, 1963.

CHAPTER 25

UTILITY TAX

§25.1 Tax on the Furnishing of Utility Services

Pursuant to the authority granted by Section 6-640 of the Village Law of the State of New York, a tax equal to one per centum of its gross income on and after the first day of March 1970 is hereby imposed upon every utility doing business in the Village of Gowanda, New York, which is subject to the supervision of the State Department of Public Service, which has a gross income for twelve months ending May 31st in excess of five hundred dollars, except motor carriers or property subject to such supervision under Article three-b of the Public Service Law, and a tax equal to one per centum of its gross operating income from and after the first day of March 1970 is hereby imposed upon every other utility doing business in the Village of Gowanda, New York, which has a gross operating income for twelve months ending May 31st in excess of five hundred dollars, which taxes shall have application only within the territorial limits of the Village of Gowanda and shall be in addition to any other taxes and fees imposed by any other provision of law. Such taxes shall not be imposed on any transaction originating or consummated outside of the territorial limits of the Village of Gowanda notwithstanding that some acts be necessarily performed with respect to such transaction within such limits.

§25.2 Definitions

As used in this Chapter:

1. The word "utility" includes every person subject to the supervision of the State Department of Public Service, except persons engaged in the business of operating or leasing sleeping and parlor railroad cars or operating railroads other than street surface, rapid transit, subway and elevated railroads, and also includes every person (whether or not such person is subject to such supervision) who sells gas, electricity, steam, water, refrigeration, telephone or telegraph service, by means of mains, pipes or wires, regardless of whether such activities are the main business of such person or are only incidental thereto, or of whether use is made of the public streets.
2. The word "person" means persons, corporations, companies, associations, joint stock associations, co-partnerships, estates, assignee of rents, any person acting in a fiduciary capacity, or any other entity, and persons, their assignees, lessees, trustees or receivers, appointed by any court whatsoever, or by any other means, except the state, municipality and public districts.
3. The words "gross income" mean and include receipts received in or by reason of any sale, conditional or otherwise (except sales hereinafter referred to with respect to which it is provided that the profits from the sale shall be included in gross income) made or service rendered for ultimate consumption or use by the

purchaser in the Village of Gowanda, New York, including cash, credits and property of any kind or nature whether or not such sale is made or such service is rendered for profit), without any deduction therefrom on account of the cost of the property sold, the cost of the materials used, labor or services or other costs, interest or discount paid, or any other expense whatsoever; also profits from the sale of real property growing out of the ownership or use of or interest in such property; also profit from the sale of personal property other than property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the period for which a return is made); also receipt from interest, dividends, and royalties, derived from sources within the Village of Gowanda, New York, other than such as are received from a corporation a majority of whose voting stock is owned by the taxpaying utility, without any deduction therefore for any expenses whatsoever incurred in connection with the receipt thereof, and also profits from any transaction (except sales for resale and rentals) within the Village of Gowanda, New York, whatsoever; provided, however, that the words "gross income" shall include, in the case of a utility engaged in selling telephony or telephone service, only receipts from local exchange service wholly consummated within the Village of Gowanda, New York, and in the case of a utility engage in selling telegraphy or telegraph service, only receipts from transactions wholly consummated within the Village of Gowanda, New York.

4. The words "gross operating income" mean and include receipts received in or by reason of any sale, conditional or otherwise, made for ultimate consumption or use by the purchaser of gas, electricity, steam, water, refrigeration, telephony or telegraphy, or in or by reason of the furnishing for such consumption or use of gas, electric, steam, water, refrigeration, telephone or telegraph service in the Village of Gowanda, New York, including cash, credits, and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or services or other costs, interest, or discount paid, or any other expenses whatsoever.

§25.3 Records of Utility

Every utility subject to tax under this Chapter shall keep such records of its business and in such form as the Village Treasurer may required, or as the Village Board my require, and such records shall be preserved for a period for three years, except that the Village Treasurer or the Village Board may consent to their destruction within that period or may require that they be kept longer.

§25.4 Filing by Utility

Every utility subject to tax hereunder, shall file, on or before September 25th, December 25th, March 25th, and June 25th, a return for the three calendar months preceding each such return date including any period for which the tax imposed hereby or by any amendment hereof is effective. Every return shall state the gross income or gross operating income for the period covered thereb6y. Returns shall be filed with the Village Treasurer on a form to be furnished by him for such purpose and shall contain such other data, information or matter as he may require to be included

therein. The Village Treasurer, in order to ensure payment of the tax imposed, may require at any time a further or supplemental return, which shall contain any data that may be specified by him and he may require any utility doing business in the Village of Gowanda, New York, to file an annual return, which shall contain any data specified by him, regardless of whether the utility is subject to tax under this Chapter. Every return shall have annexed thereto an affidavit of the head of the utility making the same or of the owner or of a co-partner thereof, or of a principal officer of the corporation, if such business is conducted by a corporation, to the effect that the statements contained therein are true.

§25.5 Payment of Tax

At the time of the filing of a return as required by this Chapter, each utility shall pay to the Village of Gowanda the tax imposed by this Chapter for the period covered by such return. Such tax shall be due and payable at the time of filing the return, or, if a return is not filed when due, on the last day on which the return is required to be filed.

§25.6 Sufficiency of Return

In case any return filed pursuant to this Chapter shall be insufficient or unsatisfactory to the Village Treasurer, and if a corrected or sufficient return is not filed within twenty days after the same is required by notice from him, or if no return is made for any period, the Village Treasurer shall determine the amount of tax due from such information as he is able to obtain, and if necessary, may estimate the tax on the basis of external indices or otherwise. He shall give notice of such determination to the person liable for such tax. Such determination shall finally and irrevocably fix such tax, unless the person against whom it is assessed shall, within thirty days after the giving of notice of such determination, apply to the Village Treasurer for a hearing, or unless the Village Treasurer, of his own motion shall reduce the same. After such hearing, the Village Treasurer shall give notice of his decision to the person liable for the tax. Such decision may be reviewed by a proceeding under Article seventy-eight of the Civil Practice Law and Rules of the State of New York if application therefore is made within ninety days after the giving of notice of such decision. An order to review such decision shall not be granted unless the amount of any tax sought to be reviewed, with interest and penalties thereon, if any, shall be first deposited with the Village Treasurer and an undertaking filed with him, in such amount and with such sureties as a Justice of the Supreme Court shall approve, to the effect that, if such proceeding be dismissed or the tax confirmed, the applicant will pay all costs and charges which may accrue in the prosecution of such proceeding, or at the option of the applicant, such undertaking may be in a sum sufficient to cover the tax, interest, penalties, costs and charges aforesaid, in which event the applicant shall not be required to pay such tax, interest and penalties as a condition precedent to the granting of such order. Except in the case of willfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing

of a return, provided, however, that where no return has been filed as required by this Chapter the tax may be assessed at any time.

§25.7 Notice

Any notice authorized or required under the provisions of this Chapter may be given by mailing the same to the persons for whom it is intended, in a postpaid envelope, addressed to such person at the address given by him in the last return filed by him under this Chapter, or, if no return has been filed, then to such address as may be obtainable. The mailing of such notice shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this Chapter by giving notice, shall commence to run from the date of mailing of such notice.

§25.8 Failure to File

Any person failing to file a return or corrected return, or to pay any tax or any portion thereof, within the time required by this Chapter shall be subject to a penalty of five per centum of the amount of tax due, plus one per centum of such tax for each month of delay or fraction thereof, excepting the first month, but the Village Treasurer, for cause shown, may extend the time for filing any return, and if satisfied that the delay was excusable, may remit all or any portion of the penalty fixed by the foregoing provisions of this section.

§25.9 Refund

If, within one year from the payment of any tax or penalty, the payer thereof shall make application for a refund thereof and the Village Treasurer or the court shall determine that such tax or penalty or any portion thereof was erroneously or illegally collected, the Village Treasurer shall refund the amount so determined. For like cause and within the same period, a refund may be so made on the initiative of the Village Treasurer. However, no refund shall be made of a tax or penalty paid pursuant to a determination of the Village Treasurer as hereinbefore provided unless the Village Treasurer, after a hearing as hereinbefore provided, or of his own motion, shall have reduced the tax or penalty or if it shall have been established in a proceeding under Article seventy-eight of the Civil Practice Law and Rules of the State of New York that such determination was erroneous or illegal. All refunds shall be made out of monies collected under this Chapter. An application for a refund, made as hereinbefore provided, shall be deemed an application for the revision of any tax or penalty complained of and the Village Treasurer shall give notice thereof to the person interested, and he shall be entitled to an order to review such determination under said Article seventy-eight of the Civil Practice Law and Rules of the State of New York, subject to the provision hereinbefore contained relating to the granting of such an order.

§25.10 Tax Not to be Added to Bill

The tax imposed by this Chapter shall be charged against and be paid by the utility and shall not be added as a separate item to bills rendered by the utility to customers or others but shall constitute a part of the operating costs of such utility.

§25.11 Failure to Pay Tax

Whenever any person shall fail to pay any tax or penalty imposed by this Chapter, the Village Attorney shall, upon the request of the Village Board, bring an action to enforce payment of the same. The proceeds of any judgment obtained in any such action shall be paid to the Village Treasurer. Each such tax and penalty shall be a lien upon the property of the person liable to pay the same, in the same manner and to the same extent that the tax and penalty imposed by section one hundred eighty-six-a of the Tax Law is made a lien.

§25.12 Rules and Regulations of Treasurer

In the administration of the Chapter, the Village Treasurer shall have power to make such reasonable rules and regulations, not inconsistent with law, as may be necessary for the exercise of his powers and the performance of his duties, and to prescribe the form of blanks, reports and other records relating to the administration and enforcement of the tax, to take testimony and proofs, under oath, with reference to any matter within the line of his official duty under this Chapter, and to subpoena and require the attendance of witnesses and the production of books, papers and documents.

§25.13 Disclosure by Treasurer

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Village Treasurer, or any agent, clerk or employee of the Village of Gowanda, New York, to divulge or make known in any manner the amount of gross income or gross operating income, or any particulars set forth or disclosed in any return under this Chapter. The officer charged with the custody of such returns shall not be required to produce any of them or evidence of anything contained in them in any action or proceeding in any court, except on behalf of the Village of Gowanda, New York, in an action or proceeding under the provisions of this Chapter, or on behalf of the State Tax Commission in an action or proceeding under the provision of the Tax Law of the State of New York, or on behalf of any party to any action or proceeding under the provisions of this Chapter when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of, and may admit in evidence, as much of said returns or of the facts shown thereby, as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a person, or his duly authorized representative, of a copy of any return filed by him, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof, or the publication of

delinquent lists showing the names of persons who have failed to pay their taxes at the time and in the manner provided for by this Chapter together with any relevant information which in the opinion of the Village Treasurer may assist in the collection of such delinquent taxes; or the inspection by the Village Attorney or other legal representative of the Village of Gowanda, New York, of the return of any person who shall bring action to set aside or review the tax bases thereon, or against whom an action has been instituted in accordance with the provisions of this Chapter. Any offense against the foregoing secrecy provisions shall be punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year or both, and if the offender be an officer, agent, clerk or employee of the Village of Gowanda, New York, he shall be incapable of holding any office or employment for the Village of Gowanda, New York, for a period of five years thereafter. Notwithstanding any provisions of this Chapter, provided such city or village grants similar privileges to the Village of Gowanda, New York, and provided such information is to be used for tax purposes only, and the Village Treasurer shall, upon request, furnish the State Tax Commission with any information contained in such returns.

§25.14 Disposition of Taxes and Penalties

All taxes and penalties received by the Village Treasurer under this Chapter shall be paid into the treasury of the Village of Gowanda, New York, and shall be credited to and deposited in the general fund of the Village.

HISTORICAL NOTE

This Chapter is derived from Local Law #1 of the Year 1970 enacted by the Village Board on February 2, 1970, filed in the office of the Secretary of State February 6, 1970 and effective March 1, 1970.

CHAPTER 26

UNIFORM CODE ENFORCEMENT

ARTICLE I PURPOSE

§26.1 Short Title

This Chapter shall be known and may be cited as the "Uniform Code Enforcement Law of the Village of Gowanda."

§26.2 Purpose

The purpose of this Chapter is to provide for enforcement procedures in the Village of Gowanda of the New York State Uniform Fire Prevention and Building Code, hereinafter called "Uniform Code."

§26.3 Area of Responsibility

- A. The Village is responsible for the administration and enforcement of the Uniform Code for all private buildings, premises and equipment located within the Village of Gowanda.
- B. The Village is also responsible for the administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of, or activities related thereto undertaken by the Village of Gowanda or any special purpose unit created by or for its benefit, although no building permit or certificate of occupancy shall be required. The Village shall not be responsible for those of a city, town, other village or county.
- C. The State is responsible for the administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of, are activities related thereto undertaken by a State Department, Bureau, Commission, Board or Authority.
- D. The State Education Department shall likewise administer and enforce the Uniform Code for school districts and boards of cooperative educational services.
- E. To the maximum extent practicable, the Village acting under this Section shall consult with those other governmental entities providing services, under authority of other laws, to those areas where the authority conferred by this Section is exercised.

ARTICLE II ENFORCEMENT OFFICER

§26.21 Designation of Building Inspector as Public Official

There is hereby designated in the Village of Gowanda a public official to be known as the Building Inspector, who shall be appointed by the Mayor subject to the approval of the Board of Trustees at a compensation to be fixed by the Board of Trustees.

§26.22 Appointment of Deputy Building Inspectors

The Mayor subject to the approval of the Board of Trustees may appoint one or more Deputy Building Inspectors, as the need may appear, to act under the supervision of the Building Inspector and to exercise any portion of his or her powers and duties. The compensation of such Deputy Building Inspectors shall be fixed by the Board of Trustees.

§26.23 Acting Building Inspector

In the absence of the Building Inspector, or in the case of his or her inability to act for any reason, the Mayor shall have the power, with the consent of the Board of Trustees to designate a person to act in his or her behalf and to exercise all of the powers conferred upon him or her by this Chapter.

§26.24 Restrictions on Officers and Employees

No officer or employee as the Building Department shall engage in any activity inconsistent with his or her duties or with the interests of the Building Department; nor shall he or she, during the term of his or her office or employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof with the Village of Gowanda excepting only that this provision shall not prohibit any officer or employee from such activities in connection with the construction of a building or structure owned by him or her and not constructed for sale.

§26.25 Duties and Powers of Building Inspector

- A. Enforce Code and Laws: Except as otherwise specifically provided by law, this Municipal Code, rule or regulation, or except as herein otherwise provided, the Building Inspector shall administer and enforce all of the provisions of the Uniform Code, this Municipal Code and laws and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures, and the installation and use of materials and equipment therein, and the location, use, occupancy and maintenance thereof.

- B. Application and Permits: He or she shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of insuring compliance with the Uniform Code, this Municipal Code, and laws, rules and regulations governing building construction.
- C. Notices and Orders: He or she shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of the Uniform Code, this Municipal Code, and applicable rules and regulations. He or she shall make all inspections which are necessary or proper for the carrying out of his or her duties, except that he or she may accept written reports of inspection from the Deputy Building Inspectors or other employees of the Building Department or from generally recognized and authoritative service and inspection bureaus, provided the same are certified by a responsible official thereof.
- D. Compliance with Uniform Code: Whenever the same may be necessary or appropriate to assure compliance with the provisions of the Uniform Code, this Municipal Code, applicable laws, rules or regulations, covering building construction, he or she may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories, or service bureaus or agencies.
- E. Appearance Tickets: The Building Inspector is hereby authorized to issue and serve appearance tickets in accordance with Article 150 of the Criminal Procedure Law in the enforcement of this Chapter and any other Chapters of this Municipal Code in which he or she is designated the enforcement officer.

§26.26 Department Records and Reports

- A. Records, Keep Permanent: The Building Inspector shall keep permanent official records on all transactions and activities conducted by him or her, including all applications received, permits and certificates issued, fees charged and collected, inspection reports, and notices and orders issued. All such records shall be public records open to public inspection during business hours.
- B. Summary Submitted Annually to Board of Trustees: The Building Inspector shall annually submit to the Board of Trustees a written report and summary of all business conducted by the Building Inspector, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending or concluded.

§26.27 Cooperation of Other Departments

The Building Inspector may request and shall receive, so far as may be necessary in the discharge of his or her duties, the assistance and cooperation of the Police, Fire, Health and other Departments and officers and of all other municipal officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.

§26.28 Variance and Review

A request for a variance from the Uniform Code and an appeal to review determination of or failure to render a determination by the enforcement official shall be processed with the appropriate board of review as provided in 19 NYCRR 440.

ARTICLE III BUILDING PERMITS

§26.31 Application for Building Permit

- A. Issuance from Building Inspector: No person, firm or corporation shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a separate building permit from the Building Inspector for each such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.
- B. Information Required: Application for a building permit shall be made to the Building Inspector on forms provided by him or her and shall contain the following information:
1. A description of the land on which the proposed work is to be done.
 2. A statement of the use or occupancy of all parts of the land and of the building or structure.
 3. The valuation of the proposed work.
 4. The full name and address of the owner and of the applicant, and the names and addressees of their responsible officers, if any of them are corporations.
 5. A brief description of the nature of the proposed work.
 6. A duplicate set of plans and specifications as set forth in Subdivision C of this Section.
 7. Such other information as may reasonably be required by the Building Inspector to establish compliance of this proposed work with the requirements of the Uniform Code, this Code, applicable buildings laws, rules and regulations.

Applications shall be made by the owner or lessee, or agent or either, or by the architect, engineer or building employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be

accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

- C. Plans and Specifications Required:
1. Each application for a building permit shall be accompanied by triplicate copies of plans and specifications, including a plot plan, drawn to scale, and showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks and alleys, and where required by the Building Inspector, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data.
 2. Plans and specifications shall bear the signature of the person responsible for the design and drawings. The Building Inspector may waive the requirement for filing plans for minor improvements.
- D. Demolitions: In case of demolitions, the Building Inspector shall not issue a permit until the applicant furnishes a public liability insurance policy issued by a carrier licensed to do business in the State of New York in the sum of \$100,000 - \$300,000 or such additional coverage as he or she may determine as necessary to adequately protect the public. Such policy shall be cancelled only on ten (10) days written notice to the Village and shall be subject to approval as to form by the Village Attorney.

The applicant shall also indicate in his or her application, his or her method and place of disposal of the debris from the demolition and a plan for the restoration of the property including filling of all excavations or below ground level openings, the capping or removal of sewer and water lines if there is no intention to immediately rebuild on the site.

Failure to restore the property in accordance with the approved plan shall constitute a violation of this Chapter.

The Building Inspector may waive any provisions of this Subdivision for minor demolitions.

- E. Amendments to Application: Amendments to the application or plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Building Inspector.

§26.32 Issuance of Building Permit

- A. The Building Inspector shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He or she shall approve or disapprove the application within a reasonable time.

- B. Upon approval of the application and upon receipt of the legal fees therefore, he or she shall issue a building permit to the applicant upon the form prescribed by him or her and shall affix his or her signature or cause his or her signature to be affixed thereto.
- C. Upon the approval of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the files of the Building Inspector and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Building Inspector or his or her authorized representative at all reasonable times.
- D. If the application together with plans, specifications and other documents filed therewith describe proposed work which does not conform to all the requirements of the applicable building and zoning regulations, the Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Building Inspector shall cause such refusal, together with the reasons thereof, to be transmitted to the applicant in writing.

§26.33 Performance of Work Under Building Permit

- A. Term of Permit; Extension: A building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of six (6) months after the date of its issuance. For good cause, the Building Inspector may allow a maximum of two extensions for periods not exceeding three (3) months each.
- B. Authority to Proceed: The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the Uniform Code, this Municipal Code, applicable building laws, rules and regulations. All work shall conform to the approved application, plans and specifications.

§26.34 Building Permit and Related Fees

- A. Building Permit: Upon the filing of an application for a building permit, the following fees shall be payable to the Village Clerk:
 - 1. Residential building(s), single family dwellings
 - a. Up to 1,000 square feet of floor area per dwelling unit (D.U.) \$200
 - b. Between 1,000 square feet and 3,000 square feet of floor area per dwelling unit (D.U.) \$250
 - c. Over 3,000 square feet of floor area \$300
 - 2. Two-family dwellings per dwelling unit (D.U.) \$200

3. Multiple dwellings [three (3) or more D.U.s per building] permanent occupancy, including apartment houses, condominiums and garden apartments:
 - a. For the first 5 D.U.s \$200
 - b. For the next 15 D.U.s \$100
 - c. For additional D.U.s per D.U. \$ 70
4. Transient occupancy, including hotels, motels, dormitories, sororities, fraternities, lodging houses and all other residential occupancies which do not qualify as self-contained D.U.s
 - a. 1 to 10 sleeping units, per sleeping unit \$50
 - b. 11 sleeping units and larger, per sleeping unit \$25
5. Detached accessory buildings and structures per square foot of floor area, with a minimum of \$20. \$.08
6. Non residential buildings, including buildings and structures accessory thereto and additions:
 - a. For the first 10,000 cubic feet of volume \$250
 - b. For the next 40,000 cubic feet, per 1,000 cubic feet of volume \$5.00
 - c. For each 1,000 cubic feet, per 1,000 cubic feet of volume \$2.50
 - d. For an accessory building not on a permanent foundation (as amended by Local Law No. 1 of the year 1997) \$10
7. Alterations, additions and repairs:
 - a. Up to \$1,000 of cost \$25
 - b. For each \$1,000 over \$1,000 of cost \$2.00
8. Demolition of buildings:
 - a. Up to 2,000 square feet of floor area \$30
 - b. Over 2,000 square feet of floor area \$65
9. Moving buildings:
 - a. On or across a public thoroughfare, except as provided for in Subparagraph (b) herein \$250
 - b. No exceeding 10 feet in width, 20 feet in length and 10 feet in height on vehicles over a public thoroughfare \$75
 - c. From one lot to another without moving onto a public thoroughfare \$50
 - d. From one location on a lot to another location on the same lot \$35
10. Signs:
 - a. Per square foot of sign face area, with a minimum fee of \$25 \$.50
 - b. Alterations to or relocation of existing signs for which valid permits have been issued. \$30
 - c. Fences, decorative and stockade \$25
11. Swimming Pools;
 - a. Accessory to 1 or 2-family dwelling \$25
 - b. All others \$75
12. Parking lots not included with a building permit, per parking space with a minimum fee of \$25 and a maximum fee of \$125
13. Tanks per gallon with a minimum fee of \$25 \$.02
14. Miscellaneous structures, portals, chimneys, coat trestles, etc.
 - 1) First \$1,000 of cost \$25
 - 2) Each additional \$1,000 of cost \$2

- 15. Fireplaces, stoves and other solid fuel burning appliances. \$25
- 16. Each inspection in excess of two inspections for each required inspection. \$15
- 17. Late charge - Late charge for beginning construction without approval of building permit (As amended by Local Law #3 of 26.10 the year 1998). \$50

B. Plumbing Permit Fees:

- 1. Residential buildings. Single family or two family dwelling and townhouses, new construction:
 - a. For 1 to 2 bathrooms \$60
 - b. For 2 ½ to 3 ½ bathrooms \$75
 - c. For 4 or more bathrooms \$90
- 2. Sanitary sewer installation from street to house \$25
- 3. Storm sewer installation from street to house \$25
- 4. Multiple dwellings (3 or more dwelling units per structure), new construction, permanent occupancy, apartments, condominiums, garden apartments.
 - Minimum fee \$75
 - a. For the first 50 fixtures, per fixture \$4
 - b. For the next 50 fixtures, per fixture \$2.50
 - c. For the next 100 fixtures, per fixture \$2
 - d. For all fixtures over 200, per fixture \$1.75
- 5. Sanitary sewer installation; for each sewer lateral exiting a building \$30
- 6. Storm sewer installation; for each building \$50
- 7. Waterline installation; for each 100 feet \$20
- 8. Sanitary and storm sewer installation within a building when installed under slab-on-grade floor construction:
 - a. For pipe diameters 8 inches and smaller, per 100 feet \$15
 - b. For pipe diameters over 8 inches, per 100 feet \$20
- 9. Transient occupancy, hotels, motels, etc. for each fixture with a minimum of \$75. \$4
- 10. Sanitary sewer, storm sewer and waterline system installations; for each 100 feet or fraction thereof of pipe, with a minimum of \$50 per principal structure per system. \$15
- 11. Sanitary and storm sewer installation within a building when installed under slab-on-grade floor construction:
 - a. For pipe diameter 8 inches and smaller, per 100 feet \$15
 - b. For pipe diameters over 8 inches per 100 feet \$20
- 12. Non-residential structures, new construction:
 - a. For each fixture, with a minimum fee of \$75 \$4
 - b. For sanitary sewer, storm sewer and waterline systems, outside of structure, with a minimum of \$50 per structure per system.
 - 1) For pipe 8 inches or less in diameter per 100 feet or fraction thereof \$15
 - 2) For pipe over 8 inches in diameter, per 100 feet or fraction thereof \$20
- 13. For sanitary sewer and storm sewer systems (inside of structures) when installed under slab-on-grade floor construction, per 100 feet or fraction

thereof	\$15
14. Alterations, additions and repairs to existing structures and systems and miscellaneous fees (all occupancies):	
a. Fixture installation or replacement without a roughing charge per fixture.	\$4
b. Fixture installation or replacement which includes a roughing charge with a minimum of \$20 per fixture	\$4
c. Sanitary or storm sewer and waterline system	\$25
d. Under drain alteration, addition, repair or replacement	\$25
e. Swimming pool installation	\$25
f. Conversion from private sanitary system to public system	\$40
g. Roof conductor and downspout installation, addition or replacement, per 100 feet or fraction thereof (non-residential occupancies only)	\$4
1) Miscellaneous plumbing for items not specifically detailed in this schedule. The fee will be determined by the Building Inspector on the basis of actual cost to perform inspection and review services.	
2) Each inspection in excess of two inspections for each required inspection	\$15

[NOTE: For the purpose of computing plumbing permit fees a "fixture" shall be defined as a bathtub, sink, laundry tray, drinking fountain, dishwashing machine lavatory, shower stall, urinal, water closet, hose bibb, wall hydrant, bidet, floor drain, garbage disposal, hot water tank, boiler and any other item which is connected to a water supply, sanitary or storm sewer system.]

C. Fire Prevention Permit Fees: The fee for a fire prevention permit shall be twenty-five dollars (\$25).

D. Electrical Permit Fees:

1. Residential Buildings:

a. Original electrical installation of a single or two-family dwelling, including townhouses, not exceeding 2,000 square feet of floor area, without air conditioning or special equipment, per dwelling unit.	\$50
b. Original electrical installation of a single or two-family dwelling, including townhouses, in excess of 2,000 square feet of floor area, without air conditioning or special equipment per dwelling unit.	\$85
c. Multiple residences, per living unit .	\$45
d. Hotels, motels, sleeping rooms only, per room.	\$20
e. Alterations, repairs, modifications, additions, deletions, etc. to the electrical system and includes detached accessory buildings:	
1) 1 to 10 outlets including 1 service installation	\$25
2) Exceeding 10 outlets including 1 service installation	\$30
f. Air conditioning system and other special equipment, not part of the original installation, per system, device or equipment.	\$20
g. Air conditioning system and other special equipment, part of original installation, per system, device or equipment.	\$10

- h. Swimming pool, above ground \$20
 - i. Swimming pool, in ground \$25
 - j. All other electrical permit fees for work which is not stipulated in any of the items listed in this section shall be at cost as determined by the Building Inspector with a minimum fee of fifteen dollars (\$15).
2. Commercial and Industrial:
- a. Original installation, less than 25,000 watts, without special equipment. \$75
 - b. Original installation, in excess of twenty-five thousand (25,000) watts. Includes hotels and motels not included under residential buildings (above) with a minimum fee not less than \$20 per sleeping room.
\$2.50/Kilowatt
 - c. Alterations, repairs, modification, additions, deletions, etc. to the electrical system and including detached accessory buildings:
 - 1) 1 to 10 outlets including 1 service \$30
 - 2) In excess of 10 outlets including 1 service \$35
 - 3) Service installation only. \$25

[NOTE: The fees identified in the above shall be applicable to new electrical work when the cost of any alterations, additions or repairs made within any six-month period exceed 50 percent of the cost for the replacement of the existing electrical system at the beginning of that six-month period.]

- 3. Special equipment, part of original installation, additional:
 - a. Fire alarm system or part thereof \$10
 - b. Fire and smoke detecting system or part thereof \$10
 - c. Sprinkler system or part thereof \$10
 - d. Emergency power system or part thereof \$10
 - e. Coordinated fire safety system or parts thereof \$15
 - f. Other, per system \$10
- 4. Special equipment, not part of original installation, additional:
 - a. Fire alarm \$25
 - b. Fire and smoke detection \$25
 - c. Sprinkler \$20
 - d. Coordinate fire and smoke detecting system \$30
 - e. Emergency power \$25
 - f. Other, per system \$25
- 5. Signs \$25
- 6. All other electrical permit fees for work which is not stipulated in any of the items listed in this section shall be at a cost as determined by the Building Inspector with a minimum fee of \$15.
- 7. Each inspection in excess of two inspections for each required inspection. \$15

- E. Inspection Fees – Separate: When any premises are to be inspected under the provisions of this Municipal Code exception in conjunction with the issuance of a permit for which a fee is charged, there shall be a fee of ten dollars (\$10) for each inspection.
- F. Refund: In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty percent (50%) of the fee paid, provided no construction has been commenced. If construction work has been stated and the application is not approved, the fees paid shall not be refunded.
- G. Special Permit Use or Variance: For an application for a special permit use or variance of the Zoning Law, a non-refundable fee of twenty-five dollars (\$25) shall be paid to cover the cost of publication and other costs incurred by the Village.

§26.35 Revocation of Building Permit

The Building Inspector may revoke a building permit theretofore issued and approved in the following instances:

- A. Where he or she felt that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
- B. Where he or she felt that the building permit was issued in error and should not have been issued in accordance with the applicable law.
- C. Where he or she finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
- D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.

§26.36 Stop Orders

Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provision of the Uniform Code, this Municipal Code, applicable building laws, rules or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, he or she shall notify the owner of the property, or the owner's agent, or the person performing the work, to suspend all work and any such person shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or her or by posting the same upon a conspicuous

portion of the building under construction and sending a copy of the same by registered mail.

§26.37 Right of Entry

- A. The Building Inspector shall be authorized, in the performance of his or her duties, to conduct inspections of premises, or parts of premises, at such times and in such manner as the Building Inspector may find convenient or necessary, with the consent of the person in possession or occupancy.
- B. If admission is refused or cannot be obtained from the person in possession or occupancy, the Building Inspector shall be authorized to obtain a warrant to make an inspection, provided reasonable or probable cause is shown.
- C. In case of an emergency, the Building Inspector may, without a warrant, enter any premises or parts of premises to inspect the same, at any time, without the permission of the person in possession or occupancy.

§26.38 Inspections

- A. Work for which a building permit has been issued under this Article shall be inspected for approval prior to enclosing a covering any portion thereof and upon completion of each stage of construction, including but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant or his or her agent to inform the Building Inspector that the work is ready for inspection and to schedule such inspection.
- B. Existing buildings not subject to inspection under Subdivision A of this Section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule: all areas of public assembly defined in the Uniform Code, all buildings or structures containing areas of public assembly, and the common areas of multiple dwellings – every three months; all buildings or structures open to the general public – every six months; all other buildings – every twelve months. Notwithstanding any requirement of this Subdivision to the contrary, no regular, periodic inspections of occupied dwelling units shall be required; provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety or welfare.

§26.39 Permits for Solid Fuel Heating Appliances, etc.

A building permit for installation of a solid fuel burning heating appliance, chimney and flue in any dwelling unit shall be obtained prior to installation as provided in Section 26.31 of this Chapter, provided, however, that the installation may be commenced without such permit if the delay in obtaining such permit could be expected to cause irreparable damage to the property or serious injury to the

occupants, and provided an application for the Building Permit is made within three business days of commencement of the installation.

If the Building Inspector, after inspection, determines that the installation is in compliance with the Uniform Code, he or she shall issue a certificate of compliance on a form to be prescribed by resolution of the Board of Trustees. A violation of this Section and of Subdivision 5 of Section 378 of the Executive Law shall be punishable as provided in Subdivision 5.

ARTICLE IV CERTIFICATE OF OCCUPANCY

§26.41 Certificate of Occupancy

- A. Required: No building hereafter erected shall be used or occupied in whole or part until a certificate of occupancy shall have been issued by the Building Inspector.
- B. Temporary Use: No building hereafter enlarged, extended or altered, or upon which work has been performed which required the issuance of a building permit shall continued to be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of occupancy shall have been issued by the Building Inspector.
- C. Change in Use: No change shall be made in the use or type of occupancy of an existing building unless a certificate or occupancy authorizing such change shall have been issued by the Building Inspector.
- D. Application; Affidavit: The owner or his or her agent shall make application for a certificate of occupancy. If applicable, accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the Building Inspector an affidavit of the registered architect or licensed professional engineer who filed the original plans, or of the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the work and who, by reason of his or her experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans for the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with approved plans, and as erected complies with the law governing building construction except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.

§26.42 Inspection Prior to Issuance of Certificate

Before issuing a certificate of occupancy, the Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy; and he or she may conduct such inspections as he or she deems appropriate from time to time during and upon completion of the work for which a building permit has been issued.

There shall be maintained in the Building Department a record of all such examinations and inspections together with a record of findings of violations of the law.

§26.43 Issuance of Certificate of Occupancy

- A. When, after final inspection, it is found that the proposed work has been completed in accordance with the Uniform Code, this Municipal Code, applicable building laws, and rules or regulations; and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Building Inspector shall issue a certificate of occupancy upon the form provided by him or her. If it is found that the work has not been properly completed, the Building Inspector shall refuse to issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable regulations.
- B. A certificate of occupancy shall be issued, where appropriate, within thirty (30) days after application therefore is made. Failure to act upon application within thirty (30) days shall constitute approval of such application and the building or portion thereof may thereafter be occupied as though a certificate of occupancy had been issued.
- C. The certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy is in conformity with the provisions of the Uniform Code, applicable provisions of this Municipal Code and rules and regulations, and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

§26.44 Temporary Certificate of Occupancy

Upon request, the Building Inspector may issue a temporary certificate of occupancy for a building or structure or part thereof, before the entire work covered by the building permit shall have been completed provided such portion or portions as have been completed maybe occupied safely without endangering life or the public welfare. Such certificate may be issued for a period of up to sixty (60) days and may be renewed but in no event shall the total period exceed one year.

§26.45 Tests

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform with the requirements of the Uniform Code, this Municipal Code, applicable building laws, rules or regulations, the Building Inspector may require the same to be subject to tests in order to furnish proof of such compliance.

ARTICLE V ELECTRICAL INSPECTIONS

§26.51 Authorization to Make Inspections

The Chief Inspector and each of the duly appointed Inspectors of the New York Board of Fire Underwriters or any other electrical inspection agency designated by resolution of the Board of Trustees are hereby authorized and deputized as agents of the Village to make inspections and re-inspections of all electrical installations hereinafter described, and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and re-inspections be a charge against the Village.

§26.52 Duties of Inspector

- A. It shall be the duty of the Inspector to report to the Building Inspector all violations of or deviations from or omissions of the electrical provisions of the Uniform Code and this Municipal Code. The Inspector shall make inspections and re-inspections of electrical installations in and on properties in the Village upon the written request of the Building Inspector or Fire Chief or as herein provided.
- B. The Inspector is authorized to make inspections and re-inspections of electrical wiring installations, devices, appliances and equipment in and on properties within the Village where he or she deems it necessary for the protection of life and property with the exception of single family dwellings. He or she shall inspect single family dwellings only upon written request of the Building Inspector or Fire Chief.
- C. In the event of an emergency, it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Village.
- D. It shall be the duty of the Inspector to furnish written reports to the proper officials of the Village and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection.

- E. He or she shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with the Uniform Code or with this Municipal Code and he or she shall direct that a copy of the certificate of compliance be sent to the Building Department.

§26.53 Schedule of Rates

The schedule of rates charged for inspection by each of the authorized electrical inspection agencies shall be filed with the Village Clerk and the Building Inspector.

§26.54 Exemption Permits

- A. The Building Inspector is empowered and directed to issue a permit granting exemption from the provisions of the Article to each person, firm or corporation engaged in the conduct of manufacturing in or on properties in the Village upon written application of such person, firm or corporation, hereinafter called the "applicant," setting forth that:
 - 1. The applicant is engaged in the conduct of manufacturing in the Village.
 - 2. The applicant regularly employs one or more journeyman electricians, whose principal duties are the installation, maintenance and repair of electrical machinery, appliances, equipment and wiring for electric light, heat or power, hereinafter called "electrical work" in or upon the premises used by the applicant in the conduct of manufacturing.
 - 3. By reason of the amount and frequency of electrical work so performed upon the applicant's premises, compliance with the provisions of this Article would impose an undue burden on the applicant's conduct of manufacturing operations.
- B. The term "journeyman electrician" shall mean a person who has completed an apprentice course, or received equivalent training, or has equivalent experience of at least three (3) years in electrical work.
- C. Each permit so issued shall be for a period of one year and such permit shall be renewed for successive one year periods upon supplemental application for the applicant, certifying that the statements contained in the original application remain true and correct.

§26.55 Exceptions

- A. The provisions of this Article shall not apply to the electrical installations in mines, ships, railway cars, automotive equipment or the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility, and located outdoors or in buildings used exclusively for that purpose.

- B. This Article shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as their principal business.
- C. This Article shall not apply to any building which is owned or leased in its entirety by the Government of the United States, the State of New York or is not the responsibility of the Village pursuant to §26.3.

§26.56 No Waiver or Assumption of Liability

This Article shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect herein, nor shall the Village or any of the authorized electrical inspection agencies be deemed to have assumed any such liability by reason of any inspection made pursuant to this Article.

§26.57 Violations of Article

- A. It shall be a violation of this Article for any person, firm or corporation to install or cause to be installed, or to alter or repair electrical wiring for light, heat or power, in or on properties in the Village until an application for inspection has been filed with any of the authorized electrical inspection agencies.
- B. It shall be a violation of the Article for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a temporary certificate, or a certificate of compliance, by any of the authorized electrical inspection agencies.

ARTICLE VI PENALTIES

§26.100 Penalties for Violation

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of any provision of this Chapter or to fail to any manner to comply with a notice, directive or order of the Building Inspector, or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

- B. Any person who shall fail to comply with a written order of the Building Inspector within the time fixed for compliance therewith, and any owner, building, architect, tenant contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this Chapter, or any lawful order, notice, directive, permit or certificate of the Building Inspector made thereunder, shall be punishable by a fine of not more than one-thousand dollars (\$1,000) or fifteen (15) days in jail, or both such fine and imprisonment. Each day a violation continues shall be deemed a separate offense.
- C. Except as provided otherwise by law, such a violation shall not be a crime and the penalty or punishment imposed therefore 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.
- D. This Section shall not apply to violations of the provisions of the Uniform Code punishable under §382 of the Executive Law of the State of New York; nor to violations of the Multiple Residence Law punishable under §304 of the Multiple Residence Law of the State of New York.

§26.101 Abatement of Violation

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct of business in or about any premises; and these remedies shall be in addition to the penalties prescribed in the preceding Section.

References:

New York State Uniform Fire Prevention and Building Code Act, Exec L Art 18 (Added L. 1981, Ch. 707).

Effective Jan. 1, 1984, the State Uniform Code is applicable to all municipalities in the State of New York. Exec L §377(I). Higher standards may be enacted by a local government. However, the SFPBCC must be notified within 30 days of adoption and they may adopt such standards in whole or in part, limit the term or duration, impose conditions or terminate them at any time. Exec L §370. Municipalities may adopt building regulations for which the Uniform Code does not provide. Exec L §369(3).

Interpretation. Requests for interpretations shall be sent to: Commissioner, Division of Housing and Community Renewal, ATTN: Housing and Building Codes Bureau, One Fordham Plaza, Bronx, New York 10456.

Plan Review. In addition to providing such interpretation service, the Housing and Building Code Bureau will review plans and specifications submitted by code enforcement officials. The bureau will cite code sections which are not complied with. This review will be considered advisory only. All requests should be sent to the above address.

CHAPTER 27

HOUSING CODE

ARTICLE I RESIDENTIAL PREMISES

PART 1 GENERAL PROVISIONS

§27.1 Purpose

The purpose of this Article is to provide basic and uniform standards, in terms of performance objectives implemented by specific requirements, governing the condition, occupancy and maintenance of residential premises, and establishing reasonable safeguards for the safety, health and welfare of the occupants and users thereof.

§27.2 Scope

The Article shall apply to residential premises as follows:

- A. Lots, plots or parcels of land on which residential buildings, buildings of mixed occupancy or accessory structures are located.
- B. Residential buildings, including one and two family dwellings and multiple dwellings, except as specifically excluded in §27.3.
- C. Residential occupancies in buildings of mixed occupancy.
- D. Accessory structures, accessory to residential occupancies.

§27.3 Non-Applicability

This Article shall not apply to mobile homes and mobile home courts, or to transient type occupancies and uses including, but not limited to, nursing and convalescent homes, hotels, motels, tourist camps, farm labor camps, travel trailers and trailer parks, and other forms of temporary housing.

§27.4 Application

- A. The provisions of this Article shall supersede local laws, ordinances, codes or regulations to the extent that such laws, ordinances, codes or regulations are inconsistent with the provisions of this Article; provided that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance, code or regulation which is more restrictive or establishes a higher standard than those provided in this Article, and such more restrictive requirement or higher standard shall govern during the period in which it is in effect.
- B. Where a provision of this Article is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire, safety, health, water supply or sewage disposal law or ordinance, or regulation adopted pursuant thereto, or other local law, ordinance, code or regulation, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail.

§27.5 Reference to New York State Building Construction Code and Other Laws

Installations, alterations and repairs to residential premises, and materials, assemblies and equipment utilized in connection therewith, shall be reasonably safe to persons and property, and in conformity with applicable statutes of the State of New York, and orders, rules and regulations issued by authority thereof. Conformity of such work, materials, assemblies or equipment with the applicable requirements of the NYS Uniform Fire Prevention and Building Code, which became effective January 1, 1984, shall be prima facie evidence that the same is reasonably safe to person and property. Wherever reference is made in this Chapter to the NYS Building Construction Code, it shall be construed to be in the NYS Uniform Fire Prevention and Building Code.

§27.6 Definitions

As used in this Article:

- A. "Accessory structure" shall mean a structure, the use of which is incidental to that of the residential building and which is located on the same premises.
- B. "Accessory use" shall mean a use, occupancy or tenancy customarily incidental to the principal use or occupancy of a residential building. Such accessory uses may include, among others, the following:
 - 1. Offices for the building management.
 - 2. Dining rooms, banquet rooms, public kitchens, and ballrooms.
 - 3. Recreation and play rooms.
 - 4. Laundries for the use of tenants and occupants and, in connection with the management and operation of a residential building.
 - 5. Maintenance and workshops, storage rooms for linen, bedding, furniture, supplies and tenants' equipment and effects.

6. Rooms or space for the incidental sale or display of merchandise to occupants and tenants, such as newspaper, candy and cigar stands.
 7. Garages within a residential building or on the premises thereof used primarily for the storage of passenger-type motor vehicles.
- C. "Approved" shall mean approved by the administrative officer under the regulations of this Chapter, or approved by an authority designated by law or this Chapter.
 - D. "Basement" shall mean that space of a building that is partly below grade which has more than half its height, measured from floor to ceiling, above the average established curb level or finished grade of the ground adjoining the building.
 - E. "Bathroom" shall mean enclosed space containing one or more bathtubs or showers, or both, and which may also contain water closets, lavatories or fixtures serving similar purposes. (See definition of toilet room).
 - F. "Building" shall mean a structure wholly or partially enclosed within exterior walls, or within exterior or party walls, and a roof, affording shelter to persons, animals or property.
 - G. "Cellar" shall mean that space of a building that is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.
 - H. "Dwelling, one family" shall mean a building containing not more than one dwelling unit occupied exclusively for residential purposes.
 - I. "Dwelling, two family" shall mean a building containing not more than two dwelling units occupied exclusively for residential purposes.
 - J. "Dwelling unit" shall mean one or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family.
 - K. "Exit" shall mean a way of departure from the interior of a building or structure, to the exterior at street or grade, including doorways, passageways, hallways, corridors, stairways, ramps, fire escapes and all other elements necessary for egress or escape.
 - L. "Family" shall mean a household constituting a single housekeeping unit occupied by one or more persons.
 - M. "Generally accepted standard" shall mean a specification, code, rule, guide or procedure in the field of construction or related thereto, recognized and accepted as authoritative.

- N. "Grade, finished" shall mean natural surface of the ground, or surface of ground after completion or any change in contour, abutting building or premises.
- O. "Habitable space" shall mean space occupied by one or more persons for living, sleeping, eating or cooking. Kitchenettes shall not be deemed to be habitable space. (See definitions of non-habitable space, public space and exit.)
- P. "Infestation" shall mean the presence, within or contiguous to a dwelling, dwelling unit, lodging house, lodging unit or premises, of insects, rodents, vermin or other pests.
- Q. "Kitchen" shall mean space, sixty square feet or more in floor area, with a minimum width of five feet, used for cooking or preparation of food.
- R. "Kitchenette" shall mean space, less than sixty square feet in floor area, used for cooking or preparation of food.
- S. "Lodging house" shall mean a multiple dwelling used primarily for the purpose of furnishing lodging, with or without meals, for compensation.
- T. "Lodging unit" shall mean a room or group of rooms forming a single habitable unit, used or intended to be used for lodging.
- U. "Mixed occupancy" shall mean occupancy of a building in part for residential used and in part for some other use not accessory thereto.
- V. "Multiple dwelling" shall mean:
1. Building containing three or more dwelling units.
 2. Building containing living, sanitary and sleeping facilities occupied by one or two families and more than four lodgers residing with either one of such families.
 3. Building with one or more sleeping rooms, other than a one or two family dwelling, used or occupied by permanent or transient paying guests or tenants.
 4. Building with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority house, or for similar uses.
 5. Building used or occupied as a convalescent, old age or nursing home but not including private or public hospitals or public institutions. (See §27.3 for certain multiple dwellings not within scope of this Article.)
- W. "Multiple residence" (see definition of multiple dwelling).
- X. "Municipality" shall mean the Village of Gowanda in the Counties of Erie and Cattaraugus and the State of New York.

- Y. "Non-habitable space" shall mean space used as kitchenettes, pantries, bath, toilet, laundry, rest, dressing, locker, storage, utility, heater and boiler rooms, closets and other spaces for service and maintenance of the building, and those spaces used for access and vertical travel between stories. (See definitions of habitable space, public space and exit).
- Z. "Plumbing system" shall mean the water supply system, the drainage system, the vent system, fixtures and traps, including their respective connections, devices and appurtenances within the property lines of the premises.
- AA. "Potable water" shall mean water which is approved for drinking, culinary and domestic purposes.
- BB. "Public space" shall mean space within a residential building for public use such as lobbies, lounges, reception, ball, meeting, lecture and recreation rooms, banquet and dining rooms and their kitchens and swimming pools.
- CC. "Sewage" shall mean liquid waste containing animal or vegetable matter in suspension or solution and which may include industrial wastes and liquids containing chemicals.
- DD. "Structure" shall mean an assembly of materials, forming a construction framed of component structural parts for occupancy or use, including buildings.
- EE. "Toilet room" shall mean enclosed space, containing one or more water closets, which may also contain one or more lavatories, urinals and other plumbing fixtures. (See definition of bathroom.)
- FF. "Ventilation" shall mean supply and removal of air to and from a space by natural or mechanical means.
- GG. "Ventilation, mechanical" shall mean ventilation by power-driven devices.
- HH. "Ventilation, natural" shall mean ventilation by opening to outside air through windows, skylights, doors, louvers or stacks with or without wind-driven devices.

PART 2 SPACE REQUIREMENTS

§27.7 General Requirements

- A. Buildings occupied in whole or in part as defined in this Article shall comply with the requirements hereinafter set forth concerning occupancy, size, light and ventilation in order to provide safe and healthful environment.
- B. The term, accessory use, shall have a uniform meaning and shall apply in the same manner and under the same conditions or restrictions to all residential buildings.

§27.8 Occupancy Classification of Buildings

Buildings for the purpose of this Article shall be classified in respect to their occupancies as follows:

- A. One and Two Family Dwellings: Buildings containing one or two dwelling units with less than four lodgers residing with a family in either one of such dwelling units.
- B. Multiple Dwellings:
 - 1. Buildings containing one or two dwelling units with more than four lodgers with a family in either one of such dwelling units.
 - 2. Buildings containing three or more dwelling units.
 - 3. Apartment houses and apartment hotels.
 - 4. Lodging houses.
 - 5. Buildings with sleeping accommodations for more than five persons used or occupied as a club, dormitory, fraternity or sorority house, or for similar uses.
 - 6. Garden apartments.
- C. Accessory Structures: Garages, carports, and similar type structures on residential premises.

§27.9 Maximum Occupancy

- A. In dwelling units, the maximum number of occupants shall be limited to the number determined on the basis of the floor areas of habitable rooms, other than kitchen, as follows: One occupant per room having floor area of at least eighty (80) but less than one hundred twenty (120) square feet, two (2) occupants per room having floor area of at least one hundred twenty (120) but less than one hundred eighty (180) square feet and three (3) occupants per room having floor area of one hundred eighty (180) or more square feet.

- B. In lodging units, the maximum number of occupants shall be limited to the number determined on the same basis as for dwelling units.
- C. In buildings occupied as clubs, dormitories, sorority or fraternity houses and providing sleeping accommodations for more than five (5) persons, the maximum number of occupants so accommodated in any habitable room shall be limited to the number determined on the basis of the floor area, in square feet, of the room divided by fifty (50) square feet per occupant.

§27.10 Prohibited Uses

- A. It shall be prohibited to use for sleeping purposes any kitchen, non-habitable space or public space.
- B. It shall be prohibited in lodging houses, to use for dining purposes any communal kitchen containing less than one hundred (100) square feet of floor area, or any non-habitable space or public space other than dining space.
- C. It shall be prohibited to prepare or eat meals in lodging units.
- D. It shall be prohibited to use any cellar space as habitable space.

§27.11 Habitable Space

- A. Size:
 - 1. Habitable space shall have a minimum ceiling height of seven (7) feet, six (6) inches over fifty (50) percent of the floor area; and the floor area where the ceiling height is less than five (5) feet shall not be considered in computing floor area.
 - 2. A dwelling unit shall contain at least one habitable room having a minimum of one hundred fifty (150) square feet of floor area and a minimum horizontal dimension of ten (10) feet.
 - 3. Kitchens shall have a minimum of sixty (60) square feet of floor area and other habitable spaces shall contain not less than eighty (80) square feet of floor area and shall have a minimum horizontal dimension of seven (7) feet.
 - 4. Every alcove less than sixty (60) square feet in area, except a cooking space or foyer, shall be deemed to be part of a habitable room. The area of the opening in the dividing partition between the alcove and the room shall be at least eighty (80) percent of the wall area of such partition, measured on the alcove side but not less than forty (40) square feet. The depth of such alcove shall not exceed half its width. The floor area of the alcove shall be added to the floor area of the room in determining light and ventilation requirements for the room. An alcove with an area of sixty (60) square feet or more, but less than the required area of habitable room, shall be separately lighted and ventilated as required for habitable space.

- B. Basements: Basements shall not be deemed habitable space where required windows are located only on one wall and the depth of the basement space exceeds four times its clear height.
- C. Light and Ventilation:
1. Habitable space shall be provided with natural light through one or more windows, skylights, transparent or translucent panels, or any combinations thereof, that face directly on legal open spaces at least six (6) inches above the adjoining finished grade, or are above a roof. The amount of light shall be equivalent to that transmitted through clear glass equal in area to ten (1) percent of the floor area of the habitable space.
 2. Habitable space shall be provided with artificial light.
 3. Habitable space shall be provided with natural ventilation through openable parts of windows or other openings in exterior walls that face legal open spaces above the adjoining finished grade or above a roof, or through openable parts of skylights, providing total clear ventilation area equal to not less than five (5) percent of the total floor area of each habitable space.
 4. Habitable space may also be provided with mechanical ventilation, in addition to natural ventilation.
- D. Miscellaneous requirements:
1. Dwelling units shall be separated from each other and from other spaces outside the dwelling unit.
 2. Sleeping rooms within dwelling units shall be separated from each other and from other spaces outside the sleeping rooms to provide privacy.
 3. Lodging units shall be separated from each other and from other spaces outside the lodging units.
 4. A communal kitchen or dining room in a lodging house shall be accessible to the occupants sharing such kitchen or dining room without going through a dwelling unit or lodging unit of another occupant.

§27.12 Public Space

- A. Height: Public space shall have a minimum height of seven (7) feet, six (6) inches measured from finished floor to finished ceiling.
- B. Light and Ventilation:
1. Public spaces shall be provided with artificial light.
 2. In public stairs, stairways and passageways artificial light shall be electric lighting available at all times so as to afford safe passage for occupants and users. Such lighting shall conform to the following:
 - a. A sufficient number of fixtures shall be provided so that the distance between fixtures is not more than thirty (30) feet and so that no wall is more than fifteen (15) feet distance from a fixture.
 - b. Incandescent lighting shall be based on not less than one-fourth (1/4) watt per square foot of floor area, except that each fixture shall have a lamp or lamps with a total of not less than twenty-five (25) watts.

- c. Fluorescent lighting shall be based on not less than one-tenth (1/10) watt per square foot of floor area, except that each fixture shall have a lamp or lamps or a total of not less than fifteen (15) watts.
 - d. Where under these formulas the calculated wattage does not correspond to that of a standard lamp, the next larger size shall be used.
3. Public spaces shall be provided with either natural ventilation, conforming to the requirements for habitable space, or with mechanical ventilation.

§27.13 Non-Habitable Space

- A. Height: Non-habitable space, except crawl spaces and attics, in multiple dwellings shall have a minimum of seven (7) feet measured from floor to ceiling.
- B. Toilet Rooms and Bathrooms:
 1. Toilet rooms and bathrooms in one and two family dwellings shall have provisions for privacy.
 2. Toilet rooms and bathrooms for dwelling units in multiple dwellings shall be located within the dwelling units and shall be accessible from any sleeping room without passing through any other sleeping room.
 3. Unless located within dwelling units or directly connected with sleeping rooms, toilet rooms and bathrooms in multiple dwellings shall be provided in each story containing habitable space, and shall be accessible thereto.
 4. Toilet rooms for employees in multiple dwellings shall be in separate rooms for each sex where there are five or more employees and shall be readily accessible to such employees and shall not open directly into any public kitchen or other public space used for the cooking or preparation of food.
 5. In one and two family dwellings, bathrooms and toilet rooms shall be provided with floors of moisture resistant material.
 6. In multiple dwellings, floors of bathrooms, toilet rooms and similar spaces shall be waterproof; such waterproofing shall extend six (6) inches or more above floors except at doors, so that floors can be flushed or washed without leaking.
- C. Light and Ventilation:
 1. Kitchenettes, bathrooms and toilet rooms shall be provided with artificial light appropriate for the use of such rooms.
 2. Laundry rooms, furnace rooms and similar non-habitable space shall be provided with artificial light appropriate for the intended use of such rooms.
 3. Stairs shall be provided with artificial light to allow safe ascent or descent.
 4. Kitchenettes, bathrooms and toilet rooms shall be provided with ventilation in accordance with either of the following:
 - a. Natural ventilation as required for habitable space, except that such openable areas shall be not less than one and one-half (1 1/2) square feet for bathrooms or toilet rooms and not less than three (3) square feet for kitchenettes.

- b. Mechanical ventilation exhausting not less than twenty-five (25) cfm for bathrooms and toilet rooms and not less than one hundred (100) cfm for kitchenettes.
- 5. Spaces in multiple dwellings which contain central heat producing, air conditioning and other equipment shall be ventilated to the outer air, and air from these spaces shall not be re-circulated to other parts of the building.
- 6. Ventilation shall be provided in unheated attics, spaces below flat roofs and crawl spaces. Location and net areas of ventilation openings shall be such as to minimize deterioration of structures members from condensation or other causes, in conformity with generally accepted standards.

§27.14 Access and Vertical Travel Between Stories

- A. Stairs, both interior and exterior, shall be of sufficient width in conformity with generally accepted standards so as to serve the occupants.
- B. Railings shall be provided on open portions of stairs, balconies, landings, and stairwells.

§27.15 Exits

- A. Safe, continuous and unobstructed exit shall be provided from the interior of the building to the exterior at street or grade level.
- B. Exits shall be arranged, constructed and proportioned so that occupants may escape safely from the building in case of emergency.
- C. In one and two family dwellings, in addition to a primary exit from the building, there shall be provided a secondary exit or, in lieu thereof, one or more exit openings for emergency use.
- D. In multiple dwellings approved exits shall be provided.

PART 3 STRUCTURAL REQUIREMENTS

§27.16 General Requirements

- A. Buildings and parts thereof shall be maintained so as to be capable of sustaining safely their own weight and the loads to which they may be subject.
- B. Buildings shall be maintained so that loads are transmitted to the soil without undue differential settlement, unsafe deformation or movement of the building or of any structural part.

- C. Buildings shall be maintained so that protection is provided for all structural members which may become structurally unsound if left unprotected. Causes of such deterioration include, among others, action of freezing and thawing, dampness, corrosion, wetting and drying and termites and other destructive insects.
- D. Buildings built in soil which is water bearing at any season of the year shall be maintained so that ground and surface water will not penetrate into habitable spaces, basements and cellars.

§27.17 Exterior Protection

- A. Foundation walls shall be maintained so as to be structurally sound and to prevent entrance of moisture, termites and vermin. Such protection shall consist of shoring where necessary, subsoil drains at footings, grouting of masonry cracks, waterproofing of walls and joists and other suitable means.
- B. Exterior walls and wall components shall be maintained so as to prevent deterioration due to the elements and destructive insects. Such maintenance shall consist of painting, installation or repair of walls, copes and flashings, waterproofing of joints, waterproof coatings, installation or repair of termite shields, poison treatment of soil, or other suitable means.
- C. Roofing shall be maintained in watertight condition so as to prevent leakage into the building. Such maintenance shall consist of repairs of roofing, flashings, waterproof coatings or other suitable means.

§27.18 Interior Protection

- A. Crawl spaces shall be maintained free of moisture and the flow of air from such spaces into walls above shall be effectively barred so as to prevent deterioration of structural members. Such provisions shall consist of maintenance of openings in foundation walls to provide adequate circulation of air in the crawl space, covering the ground in the crawl space with a moisture barrier, installation of drains outside the structure if the crawl space is below surrounding grade, blocking openings in stud walls to prevent flow of air and moisture to walls, frequent destruction of termite tubes from the soil to wood floor members above, poison treatment of soil and other suitable means.
- B. Structural members shall be maintained so as to be structurally sound. Such protection shall consist of shoring, reinforcement or repair where necessary, frequent destruction of termite tubes or other appropriate means.
- C. Chimneys and flues shall be maintained so as to be structurally sound and to prevent leakage of gases into the structure. Such maintenance shall consist of clearing flue stoppages, sealing open joints, repairing masonry where necessary and other suitable means.
- D. Ceilings and walls shall be maintained so that parts which become loose or defective do not constitute a hazard to occupants. Such maintenance shall consist of removing and replacing loose or defective sections.

- E. Toilet room and bathroom floors shall be maintained so as to prevent leakage of water through the floor, under normal conditions of use and floor washing, and resultant deterioration of defects in structural members and ceilings below. Maintenance shall consist of repairs which effectively provide the moisture and waterproof qualities required for the particular floor.

PART 4 FIRE-SAFETY REQUIREMENTS

§27.19 Prohibited Accumulations and Storage

It shall be prohibited:

- A. To accumulate or store on residential premises, except in approved locations, any highly flammable or explosive matter, such as paints, volatile oils, cleaning fluids or similar materials, or any combustible refuse liable to spontaneous combustion such as waste paper, boxes, rags or similar materials.
- B. To accumulate or store materials on fire escapes or stairs, in stairways or passageways at doors or windows, or in any other locations where in the event of fire such materials may obstruct egress of occupants or interfere with fire-fighting operations.

§27.20 Prevention of Fire Spread

- A. Walls and ceilings shall be maintained free from cracks and openings which would permit flame or excessive heat to enter the concealed space.
- B. In buildings of mixed occupancy, non-residential space shall be separated from residential space by approved fire separations which will retard the spread of fire.
- C. Garages in or attached to a residential building shall be separated from other spaces in the building by approved fire separations which will retard the spread of fire and prevent flammable or toxic vapors originating within the garage from being transmitted to other parts of the building.

§27.21 Interior Finishes, Trim and Decorative Materials

Interior finish materials for acoustical correction, surface insulation and decorative treatment on the surfaces of walls and ceilings, and interior trim shall be of materials that will not, in burning, give off excessive amounts of smoke or objectionable gases.

§27.22 Fireplaces

- A. Fireplaces and similar construction used, or intended to be used, for burning fuel in open fire shall be connected to approve chimneys and shall be installed so that nearby or adjacent combustible materials and structural members shall not be heated to unsafe temperatures.
- B. Hearths and linings or other parts of fireplaces exposed directly to flame shall be of materials that will not melt, disintegrate, spall or shatter at high temperature.
- C. Wood mantels and trim on fireplaces shall be placed and attached so that they cannot be heated to unsafe temperatures or ignited by sparks or embers from the fire.

**PART 5
EQUIPMENT REQUIREMENTS**

§27.23 General Requirements

- A. Plumbing, heating, electrical, ventilating, air conditioning, refrigerating, cooking, fire protection and radiation production equipment, elevators, dumbwaiters, escalators and other mechanical additions, installations or systems for the use of the building shall be installed, located and maintained so that under normal conditions of use such equipment and systems will not be a danger to health or welfare, a danger because of structural defects or a source of ignition, or a radiation hazard and will not create excessive noise, or otherwise become a nuisance. Equipment and systems include, but are not limited to, apparatus, devices, fixtures, piping, pipe hangers, pipe covering, wiring, fittings and materials used as part of, or in connection with, such installations.
- B. Equipment and systems subject to damage from freezing shall be adequately protected against freezing.
- C. Moving parts of equipment which may be a potential hazard shall be guarded to protect against accidental contact.

§27.24 Plumbing

- A. General requirements:
 - 1. Plumbing systems shall be maintained in sanitary and serviceable condition.
 - 2. Plumbing systems shall be maintained so as not to weaken structural members nor cause damage or deterioration to any part of the building through fixture usage.

B. Water supply:

1. Potable water from an approved source shall be available at all times in residential buildings. The domestic water supply system of the building shall be connected to such approved source, and shall not be subject to contamination. When supplied from a public source, the potable water supply system shall not be connected to private or unsafe water supplies.
2. Water supply systems shall be installed and maintained so as to provide at all times a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable them to function satisfactorily and without undue noise under all normal conditions of use.
3. Water supply systems shall be installed and maintained so that water used for purposes of cooling or heating shall not be reintroduced into the domestic water supply system nor be distributed through such equipment to plumbing fixtures.
4. Hot water supply systems shall be provided with safety devices arranged to relieve hazardous pressures and excessive temperatures.

C. Sewage drainage system:

1. Plumbing fixtures shall be drained to a sewage drainage system and such system shall be connected to a public sewer or to an adequate and approved system of sewage disposal.
2. Where a public sewer is not available, a system shall be provided to receive and dispose of sewage without health hazard or nuisance.
3. Sewage or other waste which may be deleterious to surface or subsurface waters, shall not be discharged into the ground or into a waterway unless it has first been rendered harmless through subjection to treatment in conformity with generally accepted standards.
4. Substances which will clog the pipes, produce explosive mixtures, destroy the pipes or their joints or interfere unduly with the sewage disposal process, shall not be discharged into the building drainage system unless it is provided with approved devices suitable for intercepting and substances.
5. Each fixture directly connected to the sewage drainage system shall be equipped with a water seal trap.
6. Adequate cleanouts shall be provided and maintained so that the pipes may be readily cleaned.
7. The drainage system and its attendant vent piping shall be maintained so as to provide adequate circulation of air in all pipes in order that siphonage, aspiration or pressure will not cause a loss of trap seal under ordinary conditions of use.
8. Each vent terminal to the outer air shall be installed and maintained so as to minimize the possibilities of clogging, frost closure, the return of foul air to the building or the creation of a nuisance to adjacent premises.
9. Drains provided for fixtures, devices, appliances, or apparatus containing food, water, sterile goods or similar materials, shall be equipped with air breaks, adequate to prevent contamination of such contents from any possible backup of sewage through the direct or indirect drainage piping.

D. Storage drainage:

1. Roofs and paved areas, including yards and courts, shall be drained. Storm drainage shall be conveyed to any adequate and approved system of storm water disposal where available. Storm drains shall be discharged in such manner that water will not flow onto sidewalks.
2. Where a drainage system may be subject to backwater, suitable provision shall be made to prevent its overflow into the building.
3. Leaders and gutters, if used, shall be constructed of non-combustible material, except that wood leaders and gutters may be used for buildings not more than three stories high.

E. Plumbing facilities:

1. Buildings and portions thereof shall be provided with plumbing systems designed to dispose of the sewage from all fixtures and to furnish cold water to every water closet and urinal and hot and cold water to every sink, lavatory, bathtub and shower required herein. In multiple dwellings, hot water shall be furnished at 130 degrees F to 140 degrees F temperature range from 6 am to midnight.
2. There shall be provided within each dwelling unit, plumbing fixtures consisting of at least:
 - One kitchen sink
 - One water closet
 - One bathtub or shower
 - One lavatory
3. Where multiple dwellings contain sleeping accommodations arranged as individual rooms or suites, for each multiple of six sleeping rooms or fraction thereof, there shall be provide plumbing fixtures consisting of at least:
 - One water closet
 - One bathtub or shower
 - One lavatory
4. Where multiple dwellings contain sleeping accommodations arranged as a dormitory, for each multiple of fifteen persons or fraction thereof so accommodated there shall be provided and located adjacent thereto, plumbing fixtures consisting of at least:
 - One water closet
 - One bathtub or shower
 - One lavatory
5. Urinals may be substituted in men's toilet rooms for not more than one-third ($\frac{1}{3}$) of the required number of water closets.
6. Privies, privy units and outhouses shall be prohibited on residential premises.

F. Plumbing fixtures:

1. Plumbing fixtures shall be made of smooth non-absorbent material.
2. Plumbing fixtures shall be so spaced as to be reasonably accessible for their intended use.

3. Plumbing fixtures shall be located in spaces that are accessible, lighted and ventilated.

G. Swimming pools:

1. Water supply used for filling or for cleaning of the pool shall be clean. Water supply shall be protected against potential pollution from all sources, including cross-connection and backflow.
2. Drains shall be provided so that the pool can be safely and adequately drained. Drains shall be provided in floors surrounding the swimming pool, and arranged so that water from such areas will drain without entering the pool.
3. Filtering, sterilizing and auxiliary equipment, where required, shall be adequate to maintain the sanitary quality of water during each period the pool is in use. Equipment containing gases or disinfectants capable of giving off irritating, toxic or flammable fumes shall be located in ventilated rooms.
4. The installation shall be arranged and maintained to prevent dirt, sand or other foreign matter from entering the bathing area.

H. Water supply tanks:

1. Water supply tanks shall be installed and maintained so as to be watertight, vermin-proof, rodent-proof, resistant to corrosion, and capable of withstanding the working pressures under normal operation.
2. Supports for tanks shall be of non-combustible construction.
3. Tanks and their supports shall not be used to support equipment or structures other than for tank use, except where specially designed for such other use.
4. Means for emptying water supply tanks shall be provided and maintained in proper working condition.
5. Potable water supply tanks for domestic supply and standpipe or automatic sprinkler systems shall be installed and maintained to furnish water in sufficient quantity and pressure for such systems.

§27.25 Fuel Gas

A. General requirements:

1. Fuel gas piping systems shall be installed and maintained so as to remain gastight, safe and operative under conditions of use.
2. Fuel gas piping systems shall provide a supply of gas sufficient to meet the maximum expected demand of the installed gas-burning appliances connected thereto.

B. Shut-off valves:

1. Gas piping systems shall have at least one accessible means for shutting off all gas supply and such means shall be maintained in good operating condition.
2. An easily accessible shutoff valve or cock shall be provided in the piping in close proximity to, and ahead of every outlet for gas appliance.

- C. Service equipment for gas supplied from utility mains: Gas service, gas meters and gas pressure regulators shall be located so that they are protected from damage.

- D. Gas refrigerators and ranges: Gas refrigerators and ranges shall be installed with clearance for ventilation and shall be maintained in good operating condition.
- E. High pressure gas: Any service connection supplying gas at a pressure in excess of one (1) psi gage shall be provided with a device to reduce such pressure to not more than one-half (1/2) psi gage prior to entering the meter, except where such service supplies equipment using gas at high pressures.
- F. Liquefied petroleum gas:
 - 1. Undiluted liquefied petroleum gas in liquid form shall not be conveyed through piping equipment and systems in buildings.
 - 2. Liquefied petroleum gas shall not be vaporized by devices utilizing open flame or open electrical coil.
 - 3. Where two or more containers are installed, connection shall be arranged so that containers can be replaced without shutting off the flow of gas to equipment.
 - 4. Containers shall be designed, stored and located so as not to be a hazard to the premises served, or to the surrounding property.
 - 5. Systems shall be provided with safety devices to relieve excessive pressures, and shall be arranged so that the discharge terminates at a safe location.
 - 6. Systems shall have at least one accessible means for shutting off the gas. Such means shall be located outside the building, and shall be maintained in good operating condition.

§27.26 Heating

- A. General requirements:
 - 1. Residential buildings intended for occupancy between the first day of November and the first day of May of the following year shall be provided with heating equipment designed to maintain a temperature of not less than 70 degrees F of three (3) feet and more from exterior walls, and to a level of five (5) feet above the floor, in habitable spaces, kitchenettes, bathrooms and toilet rooms. The capability of the heating equipment to maintain such indoor temperature shall be based on the average of the recorded annual minimum outside temperatures for the locality.
 - 2. In multiple dwellings, adequate heat shall be provided to maintain the indoor temperature in habitable spaces, kitchenettes, bathrooms and toilet rooms, at 70 degrees F from 6 am to 11 pm when the outside temperature falls below 55 degrees F.
- B. Smoke control: Fuel-burning heat producing equipment shall be installed and maintained so that the emission or discharge into the atmosphere of smoke, dust, particles, odors or other products of combustion will not create a nuisance or be detrimental to the health, comfort, safety or property of any person.
- C. Warm air heating: Ducts and other air handling equipment used for heating shall conform to the requirements of such equipment used for ventilating purposes.
- D. Prohibited locations for heat producing equipment: Fuel-burning water heaters shall not be located in sleeping rooms, bathrooms or toilet rooms.

- E. Fuel supply connection: Fuel-burning equipment shall be permanently fastened and connected in place. Fuel supply connection to such equipment shall be made with pipe or tubing of solid metal.
- F. Installation and clearance: Where heat producing equipment is installed on, or adjacent to, combustible materials, the location, insulation, clearance and the control of the equipment shall be such that the temperature on the surface of the combustible materials will not exceed a safe temperature.
- G. Air supply:
 - 1. Direct fired heat producing equipment and the enclosure in which it is located shall be provided with a supply of air adequate both for complete combustion at the rated gross output of the equipment and for the ventilation of the enclosure to prevent the accumulation of heat.
 - 2. Rooms containing fuel-burning equipment shall have such air supply provided by means of one or more openings to the exterior, or by means of fixed openings to interior spaces which open to the exterior.
- H. Removal of products of combustion:
 - 1. Equipment for burning solid or liquid fuel shall be connected to suitable chimneys or flues and shall not be connected to gas vents. Unvented heaters burning liquid fuel shall be prohibited.
 - 2. Fuel-burning space heaters located in sleeping rooms or rooms normally kept closed shall be connected to a suitable chimney, flue or gas vent.
 - 3. Gas-fired equipment shall be connected to a suitable chimney, flue or gas vent when the discharge of products of combustion into the space where the equipment is installed would be a hazard.
- I. Safety devices:
 - 1. Equipment capable of developing hazardous pressures or temperatures shall be provided with means to relieve safely such pressures and temperatures.
 - 2. Controls for the safe operation of automatically operated heat producing equipment shall be provided to function as follows: When failure or interruption of flame or ignition occurs, the fuel supply shall be cut off. When a predetermined temperature or pressure is exceeded, the input of additional heat shall be prevented or reduced to a safe rate. When the water level in a steam boiler drops below a predetermined level, the fuel supply shall be cut off. When failure or interruption of pilot light or main burner of liquefied petroleum gas equipment occurs, the fuel supply to each pilot light and main burner shall be cut off.
- J. Heating of garages: Fuel-burning equipment for garages servicing multiple dwellings shall be located in heater rooms, except that equipment burning gas or liquid fuel, located in the vehicle storage space, shall be permitted in stories at or above where elevated so as not to be exposed to possible accumulation of flammable gases.

§27.27 Chimneys, Flues and Gas Vents

- A. General requirements:
1. Chimneys, flues, gas vents and their supports shall be installed and maintained so as to be structurally safe, durable, smoke tight, non-combustible and capable of withstanding the action of flue gases without softening, cracking, corroding and spalling.
 2. Such facilities shall effectively convey the products of combustion to the outer air.
 3. Masonry chimneys, except approved pre-fabricated chimneys, shall have non-combustible foundations.
 4. Flue linings shall be capable of withstanding the action of flue gas without softening, cracking, corroding or spalling at the temperature to which they will be subjected.
 5. Openings for smoke pipes or gas vent connections shall be provided with means for easy connection without restriction of flue.
 6. No flue shall have smoke pipe or gas vent connections in more than one story of a building.
 7. Fuel-burning equipment and fireplaces located in different tenancies shall not be connected to the same flue.
- B. Fire safety: Chimneys, flues and gas vents shall be installed and maintained so that under conditions of use, the temperature of any combustible material adjacent thereto, insulated therefrom or in contact therewith, does not exceed a safe temperature.
- C. Spark arresters: A chimney or flue connected to an incinerator and a chimney or flue which may emit sparks, shall be provided with a spark arrester of non-combustible construction. Spark arresters shall have sufficient total clear area to permit unrestricted passage of flue gases. Openings in spark arresters shall be of such size as to prevent passage of embers and to minimize clogging by soot.

§27.28 Incinerators

- A. General requirements:
1. Incinerators shall be of adequate capacity for the intended use.
 2. Flue-fed incinerators shall be equipped with means for burning auxiliary fuel in sufficient quantity to assure complete combustion of refuse.
 3. A flue serving an incinerator shall be provided with a substantially constructed spark arrester.
 4. Incinerators shall be connected to a suitable non-combustible chimney, smokestack or flue.
 5. Connections to incinerators shall provide free passage of refuse without clogging.
- B. Service openings:
1. Serviced openings shall be readily accessible to the building occupants.
 2. Durable signs with plainly legible letters prohibiting disposal of highly flammable substances in incinerators shall be provided near service openings.

§27.29 Electrical

A. General requirements:

1. Electrical wiring and equipment shall be installed in conformity with generally accepted standards and maintained so as not to be a potential source of ignition of combustible material or a potential source of electrical hazard.
2. Electrical wiring and equipment shall be firmly secured to the surface on which it is mounted.
3. Electrical wiring and equipment installed in damp or wet locations or where exposed to explosive or flammable gases or to excessive temperatures, shall be of a type approved for the purpose and location.
4. Electrical wiring and equipment shall be protected against excessive current by properly rated over-current devices.
5. Electrical wiring and equipment shall be grounded or otherwise protected by insulation, isolation or guarding so as to minimize the danger of high voltages from lightening or other causes.
6. Electrical equipment which in ordinary operation produces arcs or sparks shall be enclosed unless separated and isolated from all combustible material.
7. Service equipment and over-current protection devices shall be installed and maintained in a readily accessible location.

B. Artificial lighting:

1. Residential buildings and occupancies shall be wired for electricity and lighting equipment shall be installed throughout to provide adequate illumination for the intended use of each space. Electric wiring system shall be connected to an adequate source of supply.
2. There shall be a switch or other means for controlling a light in each dwelling unit near the point of entrance to such unit.

C. Exit and directional signs:

1. Exits in multiple dwellings shall be provided with exit and directional signs, visible from the approach to the exits, except that such signs shall not be required in those portions of a building which contain dwelling units only, or in which exit from sleeping rooms is directly to the outside.
2. Directional signs shall be provided at locations from which the exit doorway is not readily discernible.
3. Such signs shall be worded in plainly legible block letters with the word EXIT for exit signs and the words TO EXIT with a suitable pointer or arrow indicating the direction of exit, for directional signs. Letters for signs shall be conspicuous, readily discernible and at least six (6) inches high except that for internally illuminated signs the height of such letters shall be at least four and one-half (4 ½) inches.
4. Exit and directional signs shall be illuminated either externally or internally by electric lights and shall be kept illuminated at all times when the building is occupied.

§27.30 Cooking and refrigeration

- A. General requirements:
 - 1. Each dwelling unit shall be provided with appropriate cooking and refrigeration equipment.
 - 2. Cooking and refrigeration equipment shall be maintained in good operating condition.
 - 3. Gas-burning cooking equipment shall be permanently fastened and connected in place. Gas supply connection to such equipment shall be made with pipe or tubing of solid metal.
 - 4. Solid fuel-burning cooking equipment shall be appropriately vented.

- B. Communal cooking and dining facilities: Communal kitchens and dining rooms shall comply with the following requirements:
 - 1. Communal kitchens shall contain: At least one (1) kitchen sink; at least one (1) kitchen gas or electric stove equipped with an oven and not less than four (4) top burners; at least one (1) electric or gas type refrigerator with adequate food storage capacity, but in no case less than eight (8) cubic feet nominal size. Dining space and eating facilities where provided in the kitchen area shall comply with the requirements for communal dining rooms.
 - 2. Communal dining rooms shall contain at least one (1) dining chair and two (2) lineal feet of dining space for each occupant permitted in a dining room at any particular time.

§27.31 Air conditioning and mechanical ventilation in one and two family dwellings:

- A. Exhaust air from a dwelling unit shall not be circulated to another dwelling unit

- B. Ducts shall be securely fastened in place and appropriately fire-stopped.

§27.32 Air conditioning and mechanical ventilation in multiple dwellings:

- A. Refrigerants:
 - 1. Refrigerants that are highly flammable shall not be used in multiple dwellings.
 - 2. Direct systems using refrigerants that are flammable or toxic shall not be used for air conditioning purposes.

- B. Ventilating systems:
 - 1. Ventilating systems shall be installed and maintained so that the rapid spread of heat, flame or smoke through the system will be prevented and so that under conditions of use the temperature of any combustible material adjacent thereto, or in contact therewith, will not exceed a safe temperature.
 - 2. Stairways, passageways, exits, shafts , hoist-ways or attics shall not be used as plenum chambers.
 - 3. Ducts shall be securely fastened in place and appropriately fire-stopped.
 - 4. Ducts and other air handling equipment shall be of non-combustible material.

5. Filters shall be installed and maintained so as not to constitute a fire or smoke hazard.
 6. Ducts passed through or located within combustible construction shall be separated from such construction by a clearance of at least one-half (1/2) inch or by a non-combustible insulating material at least one-fourth (1/4) inch thick.
 7. Air required for ventilation shall be taken from the exterior or shall be quality-controlled.
 8. Exhaust air from a dwelling unit or a space whose contents may emit odors, fumes or vapors shall not be circulated to other occupied spaces within the building.
- C. Air intake and exhaust openings:
1. Air intake and exhaust openings shall be installed, located, and maintained so as not to constitute a hazard or nuisance and so as to prevent the possibility of fire, smoke, fumes or foreign matter being drawn into the system.
 2. Ventilating systems shall be provided with adequate openings for incoming and outgoing air to obtain the required circulation. Intake openings shall provide air from an uncontaminated source.
 3. Where openings for mechanical exhaust are located in spaces that also contain fuel-burning equipment, there shall be provided fixed intake openings from the exterior to supply sufficient air so that the fuel-burning equipment is not adversely affected.
 4. Exhaust openings shall be located so that the exhaust air will not create a nuisance.
- D. Ventilation requirements:
1. Enclosures or spaces where heat, gases, vapors or odors may accumulate and become a potential source of hazard or nuisance, shall be provided with adequate means of ventilation to remove such excess.
 2. Public spaces shall be provided with means for obtaining air supply for the maximum number of persons for which such spaces are designed.
- E. Safety controls:
1. Manually operated controls shall be provided to stop the operation of all central fan equipment. Such controls shall be conspicuously identified and in readily accessible locations outside the fan room.
 2. Every system using re-circulated air and serving an assembly space or more than one fire area or more than one story of a building, shall be provided with controls arranged so that under abnormal rise in temperature of the air in the system the fans causing normal circulation shall stop and require manual restart.
 3. Every system for ventilating an assembly space shall be provided with an emergency switch conveniently located and with a durable sign giving instructions for shutting down the system in case of fire.

§27.33 Fuel Oil

- A. General requirements: Fuel oil shall be received, stored and conveyed by means of fixed liquid-tight equipment.
- B. Storage tanks:
 - 1. Tanks shall be provided with means for venting.
 - 2. Tanks shall be installed and maintained so as not to be a hazard to the premises served or the surrounding property.
- C. Piping:
 - 1. Automatically operated boilers and furnaces using fuel oil shall be provided with remote control to stop the flow of oil during fire and other emergency.
 - 2. Filling, emptying and venting of tanks shall be by means of fixed piping. Pipes to underground tanks shall be pitched toward tanks. Terminals of fill and vent pipes shall be located outside buildings at a safe distance from building openings.

§27.34 Fire protection in multiple dwellings

- A. Fire alarm system: Required fire alarm systems shall be maintained in proper operating condition at all times.
- B. Sprinkler equipment:
 - 1. Required sprinkler equipment shall be maintained in proper operating condition at all times. Storage of materials shall cause minimum interference to effective discharge of water.
 - 2. Valves controlling water supply to sprinklers shall be secure in the open position.
 - 3. Sprinkler heads shall be maintained free of corrosion and paint.
- C. Standpipe systems:
 - 1. Standpipe systems shall be maintained in proper operating condition at all times.
 - 2. Gate valves at hose stations shall be maintained tight against leaks.
 - 3. Hose shall be in proper position ready for operation, dry and free of deterioration.
- D. Portable extinguishers:
 - 1. Each oil burner for boiler, furnace or central hot water heater shall be provided with an approved hand fire extinguisher or two rounded-bottom pails filled with sand.
 - 2. Portable extinguishers required for fire protection shall be in their designated locations and in a condition which will permit efficient operation without delay.

§27.35 Elevators, Dumbwaiters and Escalators in Multiple Dwellings

- A. Elevators, dumbwaiters and escalators shall be maintained so as to be free from physical and fire hazards.

- B. Elevator and power operated dumbwaiter cars shall be provided with durable signs in conspicuous locations on which the rated capacity shall be indicated.
- C. Elevator cars shall be provided with approved means for transmitting a signal outside the hoist-way in case of emergency.
- D. Hoist-ways and pits shall be maintained free of refuse.
- E. Machine rooms shall be maintained free of oil and grease and shall not be used for storage of articles or materials unnecessary for the maintenance of the elevator or dumbwaiter. Flammable liquids shall not be kept in such rooms.
- F. No person shall, at any time, make any required safety device or electrical protective device inoperable, except where necessary during tests, inspections or maintenance.

PART 6 PROPERTY MAINTENANCE REQUIREMENTS

§27.36 General Requirements

Residential premises shall be maintained in conformity with the provisions of this Chapter so as to assure the desirable residential character of the property.

§27.37 Open Areas

- A. Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant ponds. Gutters, culverts, catch basins, drain inlets, storm water sewers, approved combined storm and sanitary sewers or other satisfactory drainage systems shall be utilized where deemed necessary.
- B. Fences and other minor constructions shall be maintained in safe and substantial condition.
- C. Steps, walks, driveways, parking spaces and similar paved areas shall be maintained so as to afford safe passage under normal use and weather conditions.
- D. Yards and courts will be kept clean and free of physical hazards.
- E. Heavy undergrowths and accumulations of plant growth which are noxious or detrimental to health shall be eliminated.

§27.38 Buildings and Structures

- A. Exterior wood surfaces of buildings and structures that are not inherently resistant to deterioration shall be periodically treated with a protective coating of paint or other suitable preservative.

- B. Floors, walls, ceilings, furnishings and fixtures of residential buildings shall be maintained in clean and sanitary conditions
- C. Accessory structures shall be maintained so as to be free of conditions detrimental to safety or health.

27.39 Infestation and Screening

- A. Grounds, buildings and structures shall be maintained free of insect, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall conform with generally accepted practice.
- B. Where the potential for rodent or vermin infestation exists, windows and other openings in basements and cellars shall be appropriately screened with wire mesh or other suitable materials.
- C. From May 1st to October 1st, entrances to residential buildings shall be provided with self-closing type devices or screens, and windows and other openings used for ventilation shall be appropriately screened. Screens shall not be required in rooms located sufficiently high in the upper stories of multiple dwellings as to be free of mosquitoes, flies and other flying insects.

§27.40 Garbage and Refuse

- A. Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
- B. In multiple dwellings, it shall be prohibited to store or accumulate garbage or refuse in public halls and stairways.

§27.41 Domestic Animals and Pets

Domestic animals and pets shall be kept in an appropriate manner and shall not be permitted to run at large.

ARTICLE II

MOBILE HOMES AND MOBILE HOME COURTS

PART 1 GENERAL PROVISIONS

§27.51 Purpose

The purpose of this Article is to provide basic and uniform standards, in terms of performance objectives implemented by specific requirements governing the construction, occupancy and maintenance of mobile homes and mobile home courts and establishing reasonable safeguards for the safety, health and welfare of the occupants and users thereof.

§27.52 Scope

This Article shall apply to mobile homes used, or intended to be used, for year-round dwelling accommodations in fixed locations and to mobile home courts.

§27.53 Application

- A. The provisions of this Article shall supersede local laws, ordinances, codes or regulations to the extent that such laws, ordinances, codes or regulations are inconsistent with the provisions of this Article, provided that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance or regulation which is more restrictive or establishes a higher standard than those provided in this Article and such more restrictive requirement or higher standard shall govern during the period in which it is in effect.
- B. In a case where a provision of this Article is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire, safety, health, water supply or sewage disposal law or ordinance, or regulation adopted pursuant thereto, or other local law, ordinance or regulation adopted pursuant thereto, or other local law, ordinance, code or regulation, the provision or requirement which is the more restrictive or which establishes the higher standard shall prevail.

§27.54 Reference to New York State Building Construction Code and Other Laws

- A. Installations, alterations and repairs to mobile homes and mobile home courts and materials, assemblies and equipment utilized in connection therewith, shall be reasonably safe to persons and property and shall comply with applicable statutes of the State of New York and orders, rules and regulations issued by authority thereof.

- B. Except as otherwise provided in this Article, conformity of installations, alterations and repairs of mobile home court buildings and their accessory structures and of materials, assemblies and equipment utilized in connection with such buildings and structures, with the applicable requirements of the New York State Building Construction Code shall be prima facie evidence that such work, material, assembly or equipment is reasonably safe to persons and property.

§27.55 Permit

No person shall maintain or operate a mobile home court which falls within the purview of Chapter VII of the New York State Sanitary Code without first having obtained a permit from the State, County or Municipal Health Department Office having jurisdiction.

§27.56 Definitions

The following definitions shall apply in the interpretation of this Article:

- A. "Accessory structure" shall mean a structure, the use of which is incidental to that of the mobile home and which is attached thereto or located on the same mobile home lot. Accessory structures include, but are not limited to, portable, demountable or permanent enclosures, shade structures and carports.
- B. "Approved" shall mean approved by the administrative officer under the regulations of this Article or approved by an authority designated by law of this Article.
- C. "Community area" shall mean an area of space within a mobile home court, including fences, walls and other minor constructions, which is designed for joint use of occupants or restricted to non-residential use.
- D. "Community structure" shall mean a structure within a mobile home court providing laundry, toilet, recreation, parking or other common facilities; including management office and storage buildings.
- E. "Generally accepted standard" shall mean a specification, code, rule, guide or procedure in the field of construction of mobile homes or mobile home courts or related thereto, recognized and accepted as authoritative.
- F. "Habitable space" shall mean space used for living, sleeping, eating or cooking purposes; excluding kitchenettes, bathrooms, toilet rooms, storage spaces and enclosures for equipment installations.
- G. "Mechanical systems and equipment" shall mean mobile home electrical, plumbing, heating, ventilating, air conditioning systems and equipment used for living purposes, including cooking and refrigeration equipment.

- H. "Mobile home" shall mean a movable living unit equipped with a chassis and provided with the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration. (See definition of trailer.)
- I. "Mobile home court" shall mean a parcel of land which has been planned and improved for the placement of two or more mobile homes.
- J. "Mobile home stand" shall mean that part of an individual mobile home lot which has been reserved for the placement of the mobile home.
- K. "Patio" shall mean a paved outdoor living space designed to supplement the mobile home living area.
- L. "Storage Locker" shall mean an enclosed space designed to supplement the mobile home living area.
- M. "Trailer" (travel or vacation) shall mean a movable living unit equipped with a chassis but lacking any of the following mechanical systems and equipment: plumbing, heating, electrical, cooking and refrigeration. (See definition of mobile home.)

PART 2 MOBILE HOMES

§27.57 General Requirements

- A. Mobile home design and construction shall conform to generally accepted standards of the mobile home industry.
- B. Materials, assemblies and equipment shall conform to generally accepted standards with respect to strength, durability, corrosion and fire resistance and other qualities recognized under such standards.
- C. Habitable and non-habitable space shall be arranged, located, lighted and ventilated so as to be appropriate for the intended use.
- D. Mechanical systems and equipment shall be designed, installed, and located so that under normal conditions of use such systems and equipment shall be capable of functioning safely and efficiently without being forced to operate beyond the designed capacity.
- E. Equipment requiring operation, inspection, or maintenance shall be located so that easy access to it is provided.
- F. Plumbing, heating and electrical systems shall be properly connected to approve sources of supply when a mobile home is in a fixed location and occupied for living purposes.
- G. Mobile home units, including mechanical systems and equipment shall be maintained and operated so as to be free of conditions conducive to personal injury or detrimental to health or welfare.

§27.58 Design and Construction

Mobile homes shall be structurally sound, effectively insulated and capable of sustaining dynamic loading.

A. Body and body framing:

1. Body frames shall be designed and constructed as complete units. Wall and floor surfaces shall be firmly attached to body framing members. Doors and windows shall be securely framed in place. Framing and exterior skin shall be surface treated or painted to prevent deterioration.
2. Roofs shall be pitched for proper drainage and shall be weather-tight. Roof decks shall be of metal or non-combustible materials.
3. Wood body framing shall be of seasoned lumber and shall provide adequate support and rigidity. Members shall be joined so as to insure permanent attachment to each other.
4. Metal body framing shall be of structural formed sections, riveted, bolted and welded together. Where different metals are joined precaution shall be taken to prevent electrolytic action.
5. Insulation of floors, roof and exterior walls shall consist of non-combustible materials.
6. Ventilation shall be provided to minimize deterioration of structural members from condensation or other causes.

B. Chassis:

1. Chassis shall extend substantially the length of the body and shall be capable of supporting the live and dead loads to which subjected.
2. Tongue or drawbar shall be secured to the chassis and shall be capable of supporting the weight of the forward end of the mobile home. If designed to support gas cylinders, the tongue shall be of sufficient strength and shall permit secure attachment.
3. Hitch shall be securely attached to the tongue so as to become an integral part of the tongue.
4. Axles, spring assemblies and wheels shall be capable of supporting the calculated loads.

- C. Placement: Placement of mobile home on mobile home stand by jacks or supports shall be such as to insure the retention of the mobile home in a fixed position.

§27.59 Space Requirements

- A. Maximum occupancy: The maximum of occupants of a mobile home shall be limited to the number determined on the basis of the square feet of floor area of habitable space, exclusive of habitable space used for cooking purposes, in accordance with the following:
1. 150 square feet for 1 or 2 occupants
 2. 250 square feet for 3 occupants

3. 80 square feet additional for each occupant
- B. Height of habitable space: Habitable space shall have a minimum ceiling height of seven (7) feet over fifty (50) percent of the floor area; and the floor area where the ceiling height is less than five (5) feet shall not be considered in computing gross floor area.
- C. Bathrooms and toilet rooms: Bathrooms and toilet rooms shall have provisions for privacy and shall be provided with floors of moisture resistant material.
- D. Prohibited uses: Bathrooms, toilet rooms, kitchens and kitchenettes shall not be used for sleeping purposes.
- E. Exits: A mobile home shall have a safe and unobstructed primary exit and emergency exit located remote from the primary exit.

§27.60 Light and Ventilation

- A. Habitable space: A mobile home shall be provided with natural light and ventilation adequate for the intended use of each habitable space in accordance with the following:
 1. Window area shall equal at least ten (10) percent of the floor area of each habitable space.
 2. Open-able area of windows and other openings used for natural ventilation of each habitable space shall equal at least forty-five (45) percent of the required window area, or mechanical ventilation shall be provided as set forth in paragraph 16 of subdivision B of §27.61.
- B. Non-habitable space: A mobile home shall be provided with light and ventilation adequate for the intended use of non-habitable space in accordance with the following:
 1. Kitchenettes, bathrooms and toilet rooms shall be provided with light of sufficient intensity and so distributed as to permit the maintenance of sanitary conditions and safe use of the space and the appliances, equipment and fixtures.
 2. Kitchenettes, bathrooms and toilet rooms shall be provided with natural ventilation consisting of open-able areas of not less than one and one-half (1 ½) square feet for bathrooms and toilet rooms and not less than three (3) square feet for kitchenettes; or mechanical ventilation shall be provided as set forth in paragraph 16 of subdivision B of §27.61

§27.61 Mechanical Systems and Equipment

- A. Plumbing:
 1. A mobile home shall contain: kitchen sink; flush type water closet; bathtub or shower; lavatory.
 2. Hot and cold water supply shall be provided at kitchen sink, bathtub or shower and lavatory. Cold water shall be supplied to water closet.

3. Plumbing system shall be designed and arranged so as to facilitate connecting to approved exterior water supply and sewage disposal systems, provide adequate water supply to all plumbing fixtures and dispose of all liquid wastes therefrom.
- B. Heating, ventilating and air conditioning:
1. A mobile home shall contain: space heating equipment; water heating equipment.
 2. Areas allocated for installation of space heating and water heating equipment shall provide adequate clearance so that the surface of adjacent combustible materials will not exceed a safe temperature. Curtains and draperies shall not be used in such areas.
 3. Space and water heating units shall be of an approved type for installation in a mobile home. Fuel burning water heaters and furnaces other than those having a sealed combustion space, shall not be located in sleeping rooms, bathrooms and toilet rooms.
 4. Space heating units shall have sufficient capacity to maintain a minimum inside temperature of 70 degrees F., based on the average of the recorded annual minimum outside temperatures for the locality and shall be provided with manual or automatic temperature control devices.
 5. Water heating units shall have sufficient capacity to deliver at each hot water outlet an ample supply of water at a minimum temperature range of 130 degrees to 140 degrees F. and such units shall be provided with safety devices arranged to relieve hazardous pressures and excessive temperatures.
 6. Electrical space and water heating equipment shall be an approved type and shall have adequate circuit protection devices.
 7. Gas and liquid fuel-burning equipment shall be specifically designed for the type of fuel used. Flues and vents shall be suitable for the type of fuel used and shall be installed so that the surface of adjacent combustible material will not exceed a safe temperature.
 8. Automatically operated heat-producing equipment using utility gas shall have a valve that will automatically shut off the flow of gas to the main burner when the pilot flame is extinguished.
 9. Automatically operated heat-producing equipment using liquefied petroleum gas shall have a valve that will automatically shut off the flow of gas to the pilot light and main burner when the pilot flame is extinguished.
 10. Fuel-burning space and water heating units shall be vented. Other fuel-burning equipment shall be vented where the discharge of products of combustion into the space where the equipment is installed would be unsafe.
 11. Liquid fuel-burning equipment shall be vented and shall be provided with means to prevent spilling of fuel.
 12. Fuel storage containers and gas cylinders shall be mounted outside the mobile home, or in a space that is vented to the outside and is vapor-tight to the inside.
 13. Warm air supply ducts and fittings shall be of non-combustible material.
 14. Return air ducts shall be of non-combustible material where exposed to temperatures which are unsafe for combustible materials.

15. Return air grilles in doors and partitions shall be of a permanent non-closable type. Openings for return air shall not be located in bathrooms, toilet rooms and kitchenettes.
16. Mechanical ventilation, where required, shall exhaust air at rates not less than the following:
 - For habitable space - 2 air changes per hour
 - For bathrooms and toilet rooms - 25 cfm
 - For kitchenettes - 100 cfm
17. Air conditioning for habitable space provided in lieu of mechanical ventilation shall supply an amount of air not less than that set forth in paragraph 16 of subdivision B of §27.61, with at least twenty-five (25) percent of the required quantity taken from the outside.

C. Electrical:

1. A mobile home shall contain an electrical wiring system and service equipment.
2. Electrical wiring shall have adequate capacity for designed lighting and appliance equipment. Individual circuits shall contain overload protection devices.
3. At least one receptacle outlet shall be provided for each multiple of twelve (12) linear feet of wall space or major fraction thereof in each habitable space and kitchenette. Bathrooms and toilet rooms shall have permanently installed lighting fixtures and switches located so as not to be an electrical hazard.
4. Exterior equipment shall be weatherproofed to insure protection of equipment from the elements. Service equipment shall have means for quick disconnection from the source of supply.
5. Provision shall be made for grounding noncurrent carrying metallic parts of the electrical system. Such grounding shall be common to one external supply point. Provision shall be made for exterior source grounding of electrical system.

D. Cooking and refrigeration

1. A mobile home shall contain: Cooking equipment; refrigeration equipment.
2. Electrical cooking and refrigeration equipment shall be of an approved type for installation in a mobile home and shall have adequate circuit protection devices.
3. Gas burning cooking and refrigeration equipment shall be of an approved type for mobile home and shall have adequate circuit protection devices.
4. Fuel storage shall conform to the requirements of fuel storage for heating.

§27.62 Maintenance

A mobile home shall be maintained in a safe and sanitary condition.

- A. Interior: Floors, walls, ceilings, furnishings and fixtures shall be maintained in a clean and sanitary condition. Exits shall be maintained free of obstructions.
- B. Garbage and refuse: Suitable containers shall be provided for the temporary storage of garbage and refuse within the mobile home.

- C. Screening: From May 1st to October 1st, entrances to the mobile home shall be provided with self-closing type devices or screens and windows and other openings used for ventilation shall be appropriately screened.
- D. Extermination: Mobile home shall be maintained free of insects, vermin and rodents. Extermination shall be effected in conformance with generally accepted practice.
- E. Flammable materials: Flammable cleaning liquids and other flammable materials shall be stored in a safe, approved manner.

PART 3 MOBILE HOME COURTS

§27.63 General Requirements

- A. Design and construction:
 - 1. Design and construction of mobile home courts shall conform to applicable zoning and building regulations and generally accepted standards for mobile home courts.
 - 2. Open areas shall be adequate to assure privacy, natural light, and ventilation for each mobile home and sufficient for essential outdoor uses.
- B. Storm water drainage:
 - 1. Mobile home courts shall have adequate facilities for drainage of surface and subsurface water.
 - 2. Grading of the entire property shall be such as to facilitate the safe and efficient drainage of surface water.
 - 3. Gutters, culverts, catch basins, drain inlets, storm water sewers, approved combined storm and sanitary sewers or other satisfactory drainage systems shall be utilized where deemed necessary.
- C. Surfacing: Walks, driveways and parking spaces shall be provided with paved and durable surfacing so as to provide safe and easy access under normal use and weather conditions.
- D. Overhead wires: Wires installed above driveways and parking spaces shall have a clearance of not less than eighteen (18) feet.
- E. Exterior lighting: Artificial lighting shall be provided to illuminate walks, driveways and parking spaces for the safe movement of pedestrians and vehicles at night.
- F. Maintenance: Mobile home court shall be properly maintained so as to assure the desirable residential character of the property.

- G. Travel of vacation trailers: No occupied travel or vacation trailer or other form of temporary type living units shall be permitted in a mobile home court.

§27.64 Utilities

- A. Water, sewage, gas and electricity:
1. A mobile home court shall be provided with the following utilities: Water supply system; sewage supply system; electrical system.
 2. Utilities, including gas piping system where provided, shall have sufficient capacity to supply the requirements of the mobile home court and for the maximum number of connected mobile homes.
- B. Water supply system: Water supply system shall be designed to provide a sufficient supply of potable water, under adequate pressure, to outlets servicing mobile homes, community structures, drinking fountains, hose connections, hydrants, etc.
- C. Private water system: Where a public water supply system is not available, an adequate private water supply system, approved by the State, County or Municipal Health Department having jurisdiction, shall be provided.
- D. Sewage disposal system:
1. Sewage disposal system shall provide each mobile home and community structures containing plumbing fixtures with an adequate and safe method of sewage disposal.
 2. No sewage from a plumbing system shall be disposed of into the waters of the State of New York, except where specially approved by the authority having jurisdiction, in accordance with Article 12 of the New York State Public Health Law.
- E. Private sewage disposal system: Where a public sewage disposal system is not available, an adequate private sewage disposal system, approved by the State, County or Municipal Health Department having jurisdiction shall be provided.
- F. Gas piping system: Gas piping system shall be designed to provide a supply of gas sufficient to meet the maximum demand without undue loss of pressure at the connection to the mobile home furthest from the source of supply.
- G. Electrical system: Electrical system shall be designed to provide adequate capacity to supply the connected load without exceeding the allowable current carrying capacity of the conductors.

§27.65 Mobile Home Lots

- A. Mobile home stand:
1. A mobile home lot shall contain a mobile home stand capable of retaining a mobile home in a fixed position.

2. Mobile home stand shall be adequately compacted and at such elevation, distance and angle, in relation to the access-way, as to facilitate the safe and efficient placement and removal of the mobile home.
- B. Accessory structures: Accessory structures shall be of durable construction and appropriate for intended use and location.
 - C. Patios: Patios shall be located so as to provide safe and easy access from the mobile home.
 - D. Storage lockers: Storage lockers shall be designed to provide adequate storage facilities convenient to the mobile home.
 - E. Utility connections:
 1. A mobile home lot shall be provided with the following utility connections: Water supply connection; sanitary drainage connection; electrical receptacle.
 2. Utility connections, including gas connection where provided, shall be readily accessible at the mobile home stand and shall have means for safe and efficient hook up to the mobile home.
 3. Water supply connection shall be located a safe distance from sanitary drainage connection and shall not be subject to surface drainage. Means shall be provided for a suitable water tight connection, without cross connection and danger of freezing.
 4. Sanitary drainage connection shall be at proper location relative to the mobile home, and piping shall have a continuous grade to the point of disposal. Drainage connection shall be provided with suitable fittings to permit a watertight junction to be made with a mobile home outlet.
 5. Gas connection shall provide a suitable gastight connection to the mobile home.
 6. Electric system connection receptacle or terminal box shall be of an approved weatherproof type. Such receptacle shall have provision for an equipment ground.

§27.66 Community Areas

- A. Community areas, including community facilities, shall be appropriate for intended use and location.
- B. Fences, walls and other minor constructions shall be capable of sustaining anticipated loads.
- C. Swimming pools, playground equipment, etc. shall be designed so as not to be a potential hazard.

§27.67 Community Structures

Community structures shall be structurally sound and appropriate for intended use and location.

§27.68 Community Fuel Storage

A mobile home court shall be provided with facilities for the safe and efficient storage of required fuels.

- A. Liquefied petroleum gas: Liquefied petroleum gas storage containers having a capacity exceeding one hundred twenty-five (125) gallons shall be located not less than twenty-five (25) feet from the nearest mobile home, structure, building and lot line and shall not be subject to damage from moving vehicles.
- B. Fuel oil: Fuel oil and other flammable materials shall be stored so as not to be a fire hazard.

§27.69 Property Maintenance

- A. General: A mobile home shall be maintained in a safe, sanitary and orderly condition.
- B. Premises: Premises shall be kept clean and free of physical hazards.
- C. Brush and weed control: Open areas shall be maintained free of heavy undergrowths. Accumulations of plant growth which are noxious or detrimental to health shall be eliminated.
- D. Infestation: Grounds and structures shall be maintained free of insect, vermin, and rodent harborage and infestation. Methods used for purposes of extermination shall conform with generally accepted practice.
- E. Structures: Exterior wood surfaces of structures that are inherently resistant to deterioration shall be periodically treated with a protective coating of paint or other suitable preservative.
- F. Garbage and refuse: Adequate sanitary facilities and methods shall be used for the collection, storage, handling and disposal of garbage and refuse.
- G. Domestic animals and pets: Domestic animals and pets shall be kept in an appropriate manner and shall not be permitted to run at large.

ARTICLE III

ADMINISTRATION AND COMPLIANCE

PART 1 GENERAL PROVISIONS

§27.81 Purpose

The purpose of this Article is to provide basic and uniform administration of, and compliance with, applicable Housing Standards, and to establish the responsibilities of parties concerned therewith.

§27.82 Scope

This Article shall apply to administration of, and compliance with, applicable Housing Standards.

§27.83 Non-Applicability

This Article shall not apply to premises which are not within the scope of applicable Housing Standards.

PART 2 ADMINISTRATION

§27.84 Administrative Agency

- A. The Building Inspector shall administer and secure compliance with the applicable Housing Standards.
- B. The Building Inspector shall have as his representatives such assistants and inspectors as may be necessary to carry out effectively the powers and duties of his office.
- C. All personnel shall be qualified and appointed as prescribed by law, and shall be furnished with appropriate official badges or identification cards.
- D. All personnel shall be free from personal liability for acts done in good faith in the performance of their official duties.

§27.85 Powers and Duties

- A. The Building Inspector shall be charged with the duty of administering the applicable Housing Standards and securing compliance therewith, and shall be empowered to adopt rules and regulations necessary for securing such compliance provided that such rules and regulations shall not be in conflict with the applicable Housing Standards.
- B. The Building Inspector, his assistants and deputy inspectors, if any, shall be authorized to conduct surveys of housing in any area of the Municipality to determine the condition of premises, extent of deterioration, lack of facilities, inadequate maintenance, unsafe and insanitary conditions, and extent of overcrowding, land use and other relevant factors.
- C. It shall be the duty of the Building Inspector:
 - 1. To cause periodic inspections to be made not less than once every five *5) years, of all premises within the scope of applicable Housing Standards.
 - 2. To cause an investigation of all complaints of alleged housing violations or other unsafe or insanitary conditions.
 - 3. To order, in writing, the remedying of all conditions found to exist in or on any premises in violation of provisions of the Housing Standards or of rules and regulations adopted by the agency, to state in the violation order a reasonable time limit for compliance therewith and, where necessary, to order the vacation of premises found unfit for human habitation.
 - 4. To request the chief legal officer of the Municipality to take appropriate legal action in the name of the agency upon failure of the responsible party to comply with such violation order within the time specified therein.
 - 5. To cause a search of the Municipality's records of housing violations existing on any premises and to issue a certified statement thereof upon receipt of written request and payment of any fees required by local law or ordinance.
 - 6. To study housing conditions in the Municipality.
 - 7. To cooperate with other municipal, governmental and private agencies engaged in the study and improvement of housing conditions.
 - 8. To publish an annual report of housing conditions in the Municipality, accomplishments of the agency and recommendations for the future.
- D. Where violations of the Housing Standards exist and pose an immediate hazard or danger to the health, safety or welfare of building occupants or of the public the Building Inspector may issue an order citing the violation and directing such action by such municipal officer, department or board as is necessary to remove or abate the immediate hazard or danger.

§27.86 Inspection

- A. Inspectors shall be authorized and have the right, in the performance of their duties, to enter any premises during normal business hours and in emergencies whenever necessary to protect the public interest.
- B. Owners, agents, operators and occupants shall be responsible for providing access to all parts of the premises within their control to authorized agency personnel acting in the performance of their duties.

§27.87 Records

The Building Inspector shall keep records of all complaints received, inspections made and violations found regarding premises regulated by the Housing Standards. Records shall be kept in a manner and form as prescribed by local law, ordinance or regulation or direction of the Board of Trustees and shall be available for public inspection.

PART 3 COMPLIANCE

§27.91 Responsibilities of Owners

- A. Owners of premises shall be responsible for compliance with the Housing Standards and shall remain responsible therefore regardless of the fact that this Article may also place certain responsibilities on operators and occupants and regardless of any agreements between owners and operators or occupants as to which party shall assume such responsibility.
- B. Owners of premises shall be responsible for proper maintenance, condition and operation of service facilities and for furnishing adequate heat and hot water supply in multiple dwellings.

§27.92 Responsibilities of Lodging House Operators

Lodging house operators shall be responsible for compliance with the Housing Standards in regard to the following:

- A. Limiting occupancy to the maximum permitted by the Housing Standards.
- B. Maintenance of safe and sanitary conditions in all parts of lodging house premises.
- C. Maintenance and operation of all required service facilities.

- D. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances within his control as well as other building equipment and facilities, in an operative, clean and sanitary condition.
- E. Sanitary maintenance of walls, floors and ceilings.
- F. Keeping exits clear and unencumbered.
- G. Disposal of building garbage and refuse in a clean and sanitary manner.
- H. Extermination of insects, rodents or other pests on the premises.
- I. Hanging and removing required screens.

§27.93 Responsibilities of Occupants

Occupants of dwelling units shall be responsible for compliance with the Housing Standards in regard to the following:

- A. Limiting occupancy of that part of the premises which he occupies or controls to the maximum permitted by the Housing Standards.
- B. Maintenance of that part of the premises which he occupies or controls in a clean, sanitary and safe condition.
- C. Maintenance of all plumbing, cooking and refrigeration fixtures and appliances, as well as other building equipment and storage facilities in that part of the premises which he occupies or controls in a clean and sanitary condition and providing reasonable care in the operation and use thereof.
- D. Keeping exits from his dwelling unit clear and unencumbered.
- E. Disposal garbage and refuse into provided facilities in clean and sanitary manner.
- F. Extermination of insects, rodents and other pests within his dwelling unit if his unit is the only one infested in the premises.
- G. Hanging and removing required screens.
- H. Keeping his domestic animals and pets in an appropriate manner and under control.

PART 4 PENALTIES

§27.100 Violations and Penalties

- A. Every person who shall fail to comply with a violation order issued by the Building Inspector within the time limit stated thereon shall be guilty of an offense and upon conviction shall be punished by a fine or not more than two hundred fifty dollars (\$250) or by imprisonment for not more than thirty (30) days or both. Each week that a violation continues shall be a separate offense.

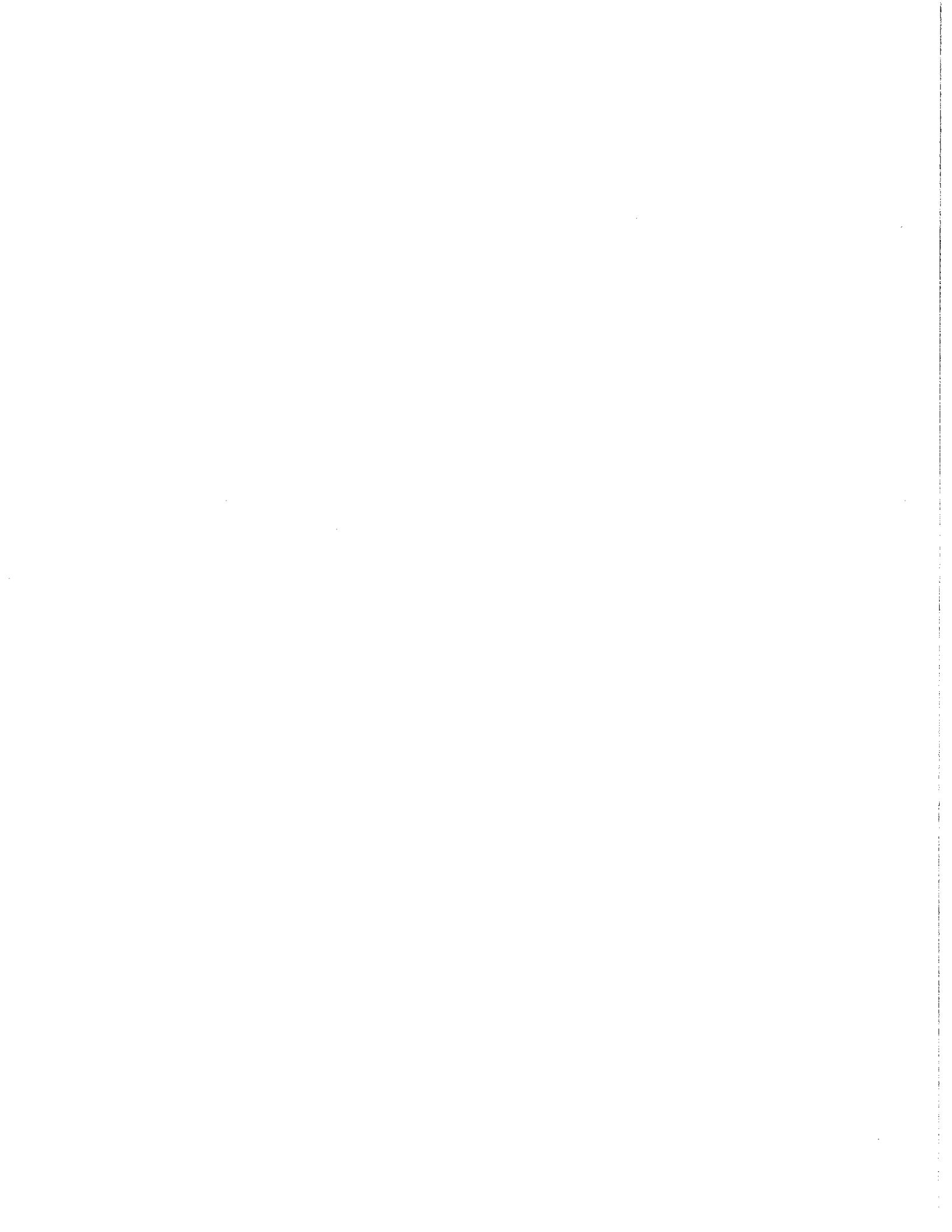
- B. The Board of Trustees may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this Chapter or any rule or regulation adopted pursuant hereto, notwithstanding the imposition of the above penalty or punishment for such violation.

Cross References:

Building Code Enforcement., Chapter 26
Unsafe Buildings, Chapter 33
Zoning, Chapter 30

References:

See References p. 26.14, supra.



CHAPTER 28

DAMAGED, DISMANTLED, INOPERABLE VEHICLES

§28.1 Legislative Findings

It is hereby found, determined and declared by the Village Board of the Village of Gowanda, New York, that the parking, storage or keeping of damaged, inoperable or partially dismantled motor vehicles or vehicles of any kind which are designed to be propelled by force other than muscular power on premises within the Village tends to interfere with the enjoyment of neighboring properties, extend and aggravate urban blight, reduce the value of private property, create hazards of fire and explosion, present an attractive nuisance to children of tender years and results in a serious hazard to the public health and safety, constituting a public nuisance which requires regulation for the protection of the general welfare of the community.

§28.2 Definitions

When used in this Chapter, the following words shall have the following specified meanings unless expressly stated or unless the context or the subject matter otherwise require:

- A. "Premises" shall include all parcels of real property in the Village of Gowanda, whether occupied or vacant, irrespective of size or topography.
- B. "Owner" when used with respect to premises shall mean any person, firm or corporation listed as an owner of such premises on the tax rolls of the Village of Gowanda.
- C. "Occupant" shall mean a person in control of premises either as the owner thereof or as a contract purchaser, tenant, lessee or sub-tenant in such premises or part thereof.
- D. "Damaged" when used in reference to a vehicle shall include visible exterior damage to body parts caused by collision, upset, vandalism, rust or corrosion to an extent which would require body repairs of a retail value exceeding \$400.
- E. "Partially Dismantled" shall mean a vehicle lacking a body part or parts such as a fender, hood, door, window, deck lid or of tires or wheels or from which engine parts, transmission or parts thereof, suspension units or parts or similar systems have been extracted for use in making repairs or restorations to another similar vehicle or vehicles or system or for re-sale of such removed items as repair parts, but shall not include vehicles of such vintage as will qualify as antique collectibles, provided that restoration of such vintage vehicle is in actual process and is actually substantially completed within 90 calendar days.
- F. "Inoperable" shall mean a condition of a vehicle resulting from damage or partial dismantling or from the wearing out or breakdown of mechanical or electrical systems or parts to the degree that such vehicle is not capable of qualifying for lawful operation thereof for its originally intended purpose.

§28.3 Prohibition – Exceptions

- A. No owner or occupant of any premises in the Village of Gowanda shall park, store or keep or permit the parking, storage or keeping on such premises of any motor vehicle or other vehicle of any kind which was designed by its original manufacturer to be propelled by any force other than muscular power and which constitutes damaged, dismantled or inoperable vehicle as above defined unless such vehicle is wholly enclosed within a building on such premises.
- B. This section shall not apply to:
 - 1. The parking, storage or keeping of such vehicles when held in connection with the operation of a business enterprise lawfully licensed for the conduct or a repair service for such vehicles at a premises appropriately located pursuant to the applicable zoning regulations of the Village of Gowanda; or
 - 2. The temporary parking, storage or keeping on premises occupied by the owner of a vehicle which is currently duly and lawfully registered with the Department of Motor Vehicles of New York State or a sister state or with any other department of New York State having licensing authority respecting the operation of such vehicle during a calendar period not exceeding 30 days immediately following the happening of a collision or upset causing damage to such vehicle or immediately following the occurrence of an electrical or mechanical failure by which such vehicle shall have become inoperable, providing that no such parking or storage during such 30 day period shall be permitted at a point nearer a public street than the minimum front yard setback required for a principal building on such premises in the relevant zoning district or at a point forward of the front face of such principal building if such front face is further from such public street.

§28.4 Violations and Penalties

Violation of any provision of this Chapter shall constitute an offense and shall be punishable upon conviction thereof by a fine of no more than two hundred fifty dollars (\$250). Each calendar week during which a violation continues shall constitute a separate offense.

HISTORICAL NOTE

This Chapter was enacted by the Board of Trustees of the Village of Gowanda by Local Law #2 of the Year 1990 on September 18, 1990, effective immediately upon filing in the Office of Secretary of State.

CHAPTER 30

ZONING

ARTICLE I TITLE AND DEFINITIONS

§30.1 Short Title

This Chapter shall be known and may be cited as the "Zoning Ordinance of the Village of Gowanda, Erie and Cattaraugus Counties, New York."

§30.2 Definitions

For the purpose of this Chapter certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future, words in the singular number include the plural and words in the plural number include the singular. The word "person" includes a firm, partnership or corporation as well as an individual. The word "used" shall be interpreted to include the term "designed or intended to be used." The term "shall" is always mandatory.

1. "Abandonment" shall mean the voluntary, absolute relinquishment, the giving up of a known right to which one is entitled, with the intention of permanently terminating or parting with such right. Abandonment depends upon the concurrence of two elements or factors:
 - A. The intention to relinquish, to permanently give up a known right to continue the non-conforming use; and
 - B. The cessation of such non-conforming use, an overt act or failure to act, implying that the owner intends to permanently cease from putting the premises to the non-forming use, or such other non-conforming use as may be permitted by this Chapter.
2. "Accessory Use" shall mean a use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such accessory use dominate, in area, extent or purpose, the principal unlawful use or building, except that vehicle parking areas may be larger than the building area.
3. "Accessory Building" shall mean a subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a well or roof, such accessory building shall be considered part of the main building.
4. "Alterations" shall mean as applied to a building or structure change or rearrangement in the structural parts or the exit facilities, or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.

5. "Area, Building" shall mean the total areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of patios, terraces and steps.
6. "Auto Court" shall mean a building or group of buildings used primarily as sleeping or living quarters for transient automobile travelers and providing for accessory off-street parking but with no cooking facilities except a restaurant or caretaker's unit. The term includes tourist courts, cabin courts, motel, motor lodges and similar appellations.
7. "Auto-Wrecking Yard" shall mean the use of any or portion of any lot or plot whether inside or outside a building for the temporary storage of automobiles waiting dismantling or the dismantled parts of automobiles or for the dismantling, cutting, demolition and burning of automobiles.
8. "Basement" shall mean a story partly underground but having less than half of its clear height below finished grade.
9. "Billboard - Structural Advertising" shall mean any commercial outdoor sign, advertising medium, structure or device which advertises, directs or calls attention to any business, article, substance, or service which is painted, printed, posted or affixed to any building, billboard structure, wall, fence, railing, natural object or structure of any kind on real property or upon the ground itself.
10. "Boarding or Rooming House" shall mean the furnishing of meals and/or living accommodations for five (5) or more persons on a weekly basis for compensation.
11. "Building" shall mean any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattel.
12. "Building, Accessory" shall mean a supplemental building, the use of which is incidental to that of a principal building and located on the same lot therewith.
13. "Building, Front Line of" shall mean the base line of a vertical plane, parallel to the street line and extending from one lot line to another, beyond which no portion of a building shall extend into the front yard. Side and rear building lines shall be determined in a comparative manner.
14. "Building Height" shall mean the vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.
15. "Building, Principal" shall mean a building in which is conducted the main or principal use of the lot on which said building is located.
16. "Camping Ground" shall mean a lot used for overnight or longer occupancy by campers, house trailers, tents or other movable or temporary dwelling or sleeping quarters for human beings, but not including such occupancy when accessory to a dwelling on the same lot and limited to seasonal use by members of the immediate family residing in said dwelling.
17. "Cellar" shall mean a story partly underground and having one-half or more of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.
18. "Agricultural Operations" shall mean customary agricultural operations are a garden, nursery, greenhouse, but excludes all animals with the exception of accepted household pets.

19. "Dog Kennel" shall mean any area of land, including structures and buildings thereon that are used for the keeping of more than three (3) dogs that are more than six months old.
20. "Dump" shall mean a parcel of land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.
21. "Dwelling" shall mean a building used as the living quarters for one or more families, but not including a boarding house or rooming house, hotel or lodging house, or auto court.
22. "Dwelling Group" shall mean a group of two or more dwellings located on the same lot and having any yard or open space in common.
23. "Dwelling, Multiple" shall mean a dwelling which is occupied as the temporary or permanent residence or home of three or more families living independently of each other.
24. "Dwelling, Private" shall mean a dwelling occupied exclusively for residence purposes by one or two families and having not more than four boarders, roomers or lodgers in one or both housekeeping units.
25. "Family" shall mean one or more persons living together in one dwelling unit and maintaining a common household, including domestic servants and gratuitous guests, together with boarders, roomers or lodgers not in excess of the number allowed by this Chapter as an accessory use.
26. "Filling Station" shall mean any area of land, including structures and buildings thereon that is used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning and servicing such motor vehicles.
27. "Flammable Liquids" shall mean liquids having a flash point below 200 degrees Fahrenheit, closed cup tester. Class I flammable liquids (e.g., gasoline, other liquid petroleum gas) are those having a flash point below 25 degrees Fahrenheit. Class II flammable liquids (e.g., alcohol, ethyl or methyl acetate) are those having a flash point below 70 degrees Fahrenheit but not below 25 degrees Fahrenheit.
28. "Floor Area" shall mean the gross horizontal area of the main or first floor of a building, not including the area of un-enclosed porches or attached garages. All dimensions shall be measured along the outside faces of the exterior walls.
29. "Garage, Private" shall mean an enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a non-resident of the premises.
30. "Garage, Public" shall mean any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.
31. "Home Occupations" shall mean an occupation or a profession which:
 - A. Is customarily carried on in a dwelling unit; and
 - B. Is carried on by a member of the family residing in the dwelling; and
 - C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and

D. Which conforms to the following additional conditions:

- 1) The occupation or profession shall be carried on wholly within the principal building.
- 2) Not more than one person outside the family shall be employed in the Home Occupation.
- 3) There shall be no exterior display, no exterior sign (except as permitted under §30.21, no exterior storage of materials and no other exterior indication of the Home Occupation or variation from the residential character of the principal building.

In particular, a Home Occupation includes, but is not limited to, the following: art studio, dressmaking, professional office of a physician, dentist, lawyer, engineer, surveyor, architect or accountant, within a dwelling occupied by the same.

Teaching, with a musical instruction limited to a single pupil at a time.

However, a Home Occupation shall not be interpreted to include the following: commercial stables, kennels and restaurants.

32. "Hospital" unless otherwise specified, shall be deemed to include sanitarium, sanatorium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for diagnosis, treatment or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.
33. "Hotel or Lodging House" shall mean a building containing sleeping rooms for five (5) or more persons, which rooms are available to the public for less than a week at a time for compensation, with no cooking or dining facilities except a general kitchen and public dining room.
34. "Junk Yard" shall mean a place where junk, waste, discarded or salvaged materials are brought, sold, exchanged, sorted, baled, packed, disassembled, handled or abandoned, including auto wrecking or dismantling yards, house wrecking yards, used lumber yards, and placed or yards for use of salvaged house wrecking and structural steel materials and equipment; but not including pawn shops and establishments for the sale, purchase or storage of used motor vehicles or salvaged machinery to be reused for the purposes for which originally manufactured.
35. "Line, Street" shall mean the dividing line between the street or highway and the abutting real properties.
36. "Lot" shall mean a parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same. A lot within the meaning of this Chapter may or may not be a lot as shown on a subdivision plat or assessment record.
37. "Lot Area" shall mean the net area contained within lot lines.
38. "Lot Lines" shall mean the property lines bounding the lot. The front lot line shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the front lot line. The rear lot line shall be the lot line most distant from the front lot line.

39. "Lot Width" shall mean the least horizontal distance across the lot between side lot lines, measured at the front of a main building erected or to be erected on such lot or at a distance from the front lot line equal to the regulations of the district in which it is situated.
40. "Mobile Home" shall mean a vehicle or portable structure used for dwelling or sleeping purposes. A dependent mobile home is one which does not have flush toilet and a bath or shower.
41. "Non-Conforming Building" shall mean a building existing at the time of the enactment of this Chapter which does not conform to the regulations, excepting use regulations, of the district in which it is situated and which was legally constructed, altered or enlarged under any prior zoning ordinance or was in existence before any zoning ordinance was enacted in this Village.
42. "Parking Space Unit" shall mean an off-street space available for the parking of one motor vehicle and having an area of not less than two hundred (200) square feet exclusive of passageways and driveways appurtenant thereto and giving access thereto and having direct access to a street, highway or alley.
43. "Private Garage" shall mean an accessory building or portion of a main building used for the storage of self-propelled vehicles used by the occupants of the premises, including space for not more than one passenger vehicle used by others.
44. "Setback" shall mean the least horizontal distance from any building to the nearest street or highway right-of-way.
45. "Sign" shall mean any advertisement, announcement, direction or communication produced in whole or in part by the construction, erection, affixing or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured or colored material on any structure of surface, but not including signs placed or erected by the Village of Gowanda, the County of Erie or County of Cattaraugus or the State of New York for the purpose of showing street names or traffic directions or regulations or for other public purposes.
46. "Story" shall mean that portion of a building between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it. A basement shall be counted as a story, for the purposes of height measurement, if the ceiling is more than five (5) feet above the average adjoining ground level or if used for business or dwelling purposes. A half-story is a story under a sloping roof, having a ceiling height of seven (7) feet or more for no exceeding one-half the floor area of the uppermost full story in the building.
47. "Street" shall mean a public way which affords principal means of access to abutting properties.
48. "Structure" shall mean anything constructed or erected, which requires permanent location on the ground or attachment to something having such location.
49. "Structural Alterations" shall mean any change in the supporting members of a building or other structures, such as bearing walls, columns, beams or girders.
50. "Top Soil" shall mean the surface layer of the soil containing more or less organic matter to a depth usually plowed in cultivation. The "A" horizon of the soil column.
51. "Tourist Home" shall mean a dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

52. "Trailer Camp" shall mean any area of land or building used for occupancy by two or more trailers or mobile homes that are used for dwelling purposes.
53. "Use" shall mean the specific purpose for which land or a building is used or occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.
54. "Yard" shall mean an unoccupied space open to the sky on the same lot with a building or structure.
55. "Yard, Front" shall mean an open space extending the full width of the lot between a main building and the front lot line, unoccupied and unobstructed by buildings or structures from the ground upward, the depth of which shall be the least distance between the front lot line and the front of such main building.
56. "Yard, Rear" shall mean an open space extending the full width of a lot between the rearmost main building and the rear lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified, the depth of which shall be the least distance between the rear lot line and the rear of such main building.
57. "Yard, Side" shall mean an open space extending from the front yard to rear yard between a main building and the side lot line, unoccupied and unobstructed by buildings or structures from the ground upward except as hereinafter specified. The required width of side yard shall be measured horizontally from the nearest point in the side lot line to the nearest building.

ARTICLE II ZONING DISTRICTS

§30.21 Establishments of Districts

- A. The Village of Gowanda is hereby divided into the following types of districts:
 1. R-1 Districts: One family residential districts.
 2. R-2 Districts: One family residential districts.
 3. R-3 Districts: Multiple and two family residential districts.
 4. B-1 Districts: General business districts.
 5. B-2 Districts: Neighborhood business districts.
 6. I-1 Districts: Heavy industrial districts.
 7. MF Districts: Medical facilities districts. (Added LL #1, 92.)
- B. Said districts are bounded and defined as shown on a map entitled "Zoning Map of the Village of Gowanda, New York," adopted May 20, 1968 and certified by the Village Clerk, which accompanies and which with all explanatory matter thereon, is hereby made a part of this Chapter.

[Said Zoning Map was amended November 1, 1977, by Local Law #3, 1977] as follows:

That the Zoning Map of the Village of Gowanda, New York, is hereby amended and changed so that the following described area presently located in the R-1 District, One-Family Residential District is reclassified and changed to the R-2 Residential District;

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, Cattaraugus County and State of New York, briefly described as follows:

BEGINNING in the east bounds of Memorial Drive a distance of 979.6 feet northerly from the angle thereof; thence westerly on the curve of a 40 foot radius 47.5 feet; thence northeasterly at an interior angle of 68 degrees with the first mentioned radius and along said Eggen's east bounds 221 feet on the north bounds of lands formerly owned by Shead; thence east at right angles to Aldrich Street 102 feet; thence southerly parallel with Aldrich Street 242.5 feet to the north bounds of Robert E. Watson; thence westerly on the said north bounds of Watson 161.5 feet to the place of beginning.

TOGETHER with all that tract or parcel of land commencing at the southwest corner of the above described parcel, running thence easterly and along the southerly bounds of said above described parcel a distance of 160 feet more or less to the southeasterly corner thereof; thence southerly and parallel with Aldrich Street, 100 feet; thence westerly a distance of approximately 160 feet to the easterly bounds of Memorial Drive; thence northerly and along said easterly bounds of Memorial Drive, 100 feet more or less to the point or place of beginning.

It was amended by Local Law #2, 1979 as follows:

1. That the Zoning Map of the Village of Gowanda, New York, is hereby amended and changed so that the following described area presently located in the R-1 District, One-Family Residential District, and I-1, Heavy Industrial District, s reclassified and changed to the R-2 Residential District:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, Cattaraugus County and State of New York, briefly described as follows:

BEGINNING at a point in the centerline of Palmer Street, 764.75 feet east of the west bounds of Lot No. 16, said point also being the northeast corner of lands conveyed to Arlene E. Stockweather by Deed dated October 12, 1976 and recorded in the Cattaraugus County Clerk's Office in Liber 768 of Deeds at Page 1023; thence South 45 degrees, 41 feet 27 inches West and along said Stockweather's East bounds, 292.84 feet to the Southeast corner thereof; thence North 68 degrees, 54 feet, 40 inches West, and along a

portion of said Stockweather's bounds, 51.25 feet to an iron stake on the West bounds of lands conveyed to David Bobseine by Deed dated October 12, 1976 and recorded in the Cattaraugus County Clerk's Office in Liber 768 of Deeds at Page 1081; thence South 42 degrees, 54 feet 47 inches West, along a portion of said Bobseine's West bounds and also along the West bounds of the first described parcel of land conveyed by Louis V. Sipple and One to the Eastern Tanners Glue Company by Deed dated August 2, 1923 and recorded in the Cattaraugus County Clerk's Office in Liber 288 of Deeds at Page 503, 97.94 feet to an iron pipe; thence South 03 degrees 05 feet 26 inches West, along said Eastern Tanners Glue Company's West bounds, and also along the East bounds of Krainz, 209.55 feet to the existing centerline of Miller Street, said point being 416.85 feet easterly measured along said street from the centerline of Broadway Road, thence along the existing centerline of Miller Street as follows: South 89 degrees 55 feet East, 235.81 feet; South 80 degrees, 32 feet, 36 inches East, 152.82 feet; South 10 degrees 03 feet 02 inches East, 24.61 feet to a Northwest corner of lands conveyed to John H. Newman and One by Deed dated August 8, 1956 and recorded in the Cattaraugus County Clerk's Office in Liber 563 of Deeds at Page 349 (formerly conveyed to Charles Sternisha and One by a Deed recorded in the Cattaraugus County Clerk's Office Liber 228 of Deeds at Page 154; thence North 74 degrees 10 feet 56 inches East and along said Newman's (formerly Sternisha's) North bounds, 30.52 feet to an iron pipe; thence North 14 degrees 37 feet 29 inches East and along said Newmans' (former Sternisha's) West bounds, 67.98 feet to an iron pipe; thence South 55 degrees 16 feet 21 inches East and along said Newmans' (formerly Sternisha's) Northeast bounds, 336.60 feet to the Northeast corner thereof; thence due North, 375.38 feet to the existing centerline of Palmer Street; thence along the existing centerline of Palmer Street as follows: North 40 degrees 49 feet 46 inches West, 122.37 feet; North 29 degrees 17 feet 03 inches West, 178.27 feet; North 41 degrees 34 feet 48 inches West, 98.20 feet; North 60 degrees 47 feet 42 inches West, 99.11 feet; North 69 degrees 30 feet 11 inches West, 235.13 feet to the point or place of beginning.

It was again amended on August 18, 1981 by Local Law #1, 1981 as follows:

That the Zoning Map of the Village of Gowanda, New York, is hereby amended and changed so that the existing B-1 zone extending along the southeasterly side of East Main Street from Legion Drive to Erie Avenue shall be extended to include the following described area presently located in the R-2, one-family residential district, which is hereby reclassified and changed to the B-1, General Business District:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, County of Erie and State of New York, briefly described as follows:

A parcel of land measuring 11 feet in depth by 59.70 feet in width being a part of premises described in a deed to T. Dubaj and wife, recorded in the Erie County Clerk's Office in Liber 6808 of Deeds at page 479 which said premises is locally known as 25 Erie Avenue, bounded 59.70 feet along Dubaj's rear line as measured from the northwest corner of Dubaj's said lands which line is also a part of the easterly line of lands conveyed to Strickfaden by deed recorded in the Erie County Clerk's Office | Liber 8618 of Dees at page 489 and is also a part of the presently existing boundary between the above mentioned B-1 and R-2 zoning districts; by a line drawn parallel with and distant 11 feet easterly from Dubaj's said rear line and further bounded by a line 11 feet in length along Dubaj's said northerly line and a line 11 feet in length, parallel to Dubaj's said northerly line and distant 59.70 feet there from.

It was further amended on April 6, 1982 by Local Law #1, 1982 changing the following described property formerly owned by Farner and Parker Inc., and heretofore occupied as a dairy facility and formerly located in the B-2 District, Neighborhood Business District, to the B-1, General Business District:

ALL THAT TRACT OR PARCEL OF LAND, being parts of Lots 36 ad 37, Township 6 and Range 8 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of Buffalo Street distant 486.55 feet southerly, as measured along said center line of Buffalo Street, from the center line of Sand Hill Road; thence easterly and along the northerly line of premises described in a Deed recorded in the Erie County Clerk's Office in Liber 1569 of Deeds at page 136, 254.0 feet to the northeast corner of said premises; thence southerly and along the easterly bounds of said premises 86.54 feet; thence easterly 12.0 fee to the easterly bounds of lands of Farner & Parker Inc. as described in a deed recorded in said Clerk's Office in Liber 5089 at page 8; thence southerly along said east bounds of Farner and Parker, Inc., 140.31 feet; thence easterly along the northerly line of Farner and Parker, Inc., lands as described in a deed recorded in said office in Liber 5953 at page 214, 178.76 feet to lands of the Erie Railroad; thence southerly and along the said Railroad lands, 128.84 feet to the southeast corner of lands of Farner and Parker Milk Company; thence westerly along the southerly line of said Farner and Parker Milk Company to westerly bounds thereof, a distance of 253.0 feet; thence along said westerly bounds 77.02 feet to the northeast corner f lands now or formerly owned by Wesley Farner thence westerly along said Wesley Farner's north line 204.10 feet to the center line of Buffalo Street; thence northerly along the center line of Buffalo Street, 263.11 feet to the point or place of beginning.

It was amended by Local Law #2, 1984 as follows:

1. That the zoning map of the Village of Gowanda, New York, is hereby amended and changed so that the following described area presently located in the R-2 Residential District and B-2 Neighborhood Business District is reclassified and changed to Planned Development District:

ALL THAT TRACT OR PARCEL OF LAND, bounded generally by the rear property lines of premises fronting on the north side of Union Street, the east side of Seneca Street between Union Street and Bader Avenue, the south side of Bader Avenue and the west side of Buffalo Street between Bader Avenue and Union Street together with access thereto from Buffalo Street and Seneca Street all as more particularly described as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, Town of Collins, County of Erie and State of New York, bounded and described as follows: BEGINNING in the center of Buffalo Street at the Southeast corner of premises conveyed by William W. Cook and wife, by deed bearing the first day of October 9109, and recorded in the Erie County Clerk's Office in Liber 1155 of Deeds at page 503, of which premises the premises herein described are a part and which place of beginning is also thence westerly on the north line of said Ribble's land 198 feet; thence northerly and parallel to the center line of Buffalo Street, 40 feet; thence easterly and parallel to the first mentioned boundary line 198 feet to the center of Buffalo Street; thence southerly along the center of Buffalo Street 40 feet to the place of beginning.

ALSO ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, Town of Collins, County of Erie and State of New York, being part of Lot Number Thirty-seven (37), township six (6); and Range eight (8) of the Holland* Land Company's survey, bounded and described as follows:

BEGINNING at a point one hundred and ninety-eight (198) feet westerly from the center line of Buffalo Street; which point is the southwest corner of lands conveyed by Carlton J. Foster and Maude C. Foster, his wife, to Alvah L. Ballard and Lizzie L. Ballard, his wife, by deed bearing date the tenth day of July 1924 and recorded in the Erie County Clerk's Office in Liber 1758 of Deeds, page 24, and which place of beginning is on the north line of lands formerly owned by Henry Ribble; thence north eighty-four degrees and thirty minutes (84 degrees 30 minutes) west fifty-four and seventy-four hundredths (54.74) feet along the said Ribble's west line to an iron monument; thence north seventy degrees and thirty minutes (70 degrees, 30 minutes) west six hundred five and twenty-one hundredths (605.21) feet to an iron monument; thence north six degrees and forty-three minutes (6 degrees, 43 minutes) east four hundred seventy-eight

and sixty-four hundredths (478.64) feet to an iron monument; thence south eighty-two degrees and thirty minutes (83 degrees, 30 minutes) east three hundred eighty-nine and seventy-five hundredths (389.75) feet to an iron monument; thence south four degrees and forty minutes (4 degrees, 40 minutes) west two hundred one and seventy-one hundredths (201.71) feet to an iron monument; thence south eighty-three degrees and seven minutes (83 degrees, 7 minutes) east two hundred thirty-eight and thirty-three hundredths (238.33) feet to an iron monument; thence south twenty minutes (20 minutes) east and parallel to the center line of Buffalo Street two hundred eighty-four and eighty-nine hundredths (284.89) feet to an iron monument at the point of beginning.

ALSO ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Gowanda, County of Erie, and State of New York being part of Lots 37 and 38, Township 6 and Range 8 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center of Seneca Street at the northwest corner of premises once owned by Blaise Babinger; thence easterly along the northerly line of said Babinger lands, three (3) chains and seventy-two (72) links, to the west line of premises once owned by Asahel Camp; thence northerly on the west line of said Camp's land fifty (50) feet to a point three (3) chains seventy-two (72) links for the center of Seneca Street; thence westerly to the center of Seneca Street, three (3) chains, seventy-two (72) links; thence southerly fifty (50) feet along the center of Seneca Street to the place of beginning.

The Zoning Map was amended by Local Law #1, 1992 as follows:

1. The Zoning Map of the Village of Gowanda, New York, is hereby amended and changed so that the following described area presently located in the R-1 district, one family residential district, is reclassified and changed to the MF district, medical facilities district;

ALL THAT TRACT OR PARCEL OF LAND, situated in the Village of Gowanda, in the County of Cattaraugus and the State of New York, briefly described as follows:

Bounded on the east by the westerly bounds of Memorial Drive; on the north by the south line of lands now or formerly owned by Stanley A. Neilson; on the west by the westerly boundary of the Village of Gowanda and on the south by the south bounds of lands now or formerly owned by Gertrude Howlett. [The Village Board amended and changed the zoning of this parcel back to R-1 by resolution on July 12, 2016].

*So in original.

The Zoning Map was amended by Resolution on January 11, 1994 as follows:

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, Town of Persia, County of Cattaraugus, and State of New York, and further described as being part of Lot 16, own 6, Range 8 of the Holland Company's survey and bounded and described as follows: BEGINNING at a point made by the intersection of the south bounds of Frederick Street with the west bounds of Lot 16; thence easterly and along the southerly bounds of Frederick Street 125 feet to the point; thence southerly and at right angles with said street line and along lands now or formerly owned by Martin and Mary Voncina, Jr., as described in a deed recorded in Liber 494 of Deeds at page 483 in the Cattaraugus County Clerk's Office, 150 feet to a point; thence easterly and at right angles with the last mentioned line, and along said Voncina's southerly bounds, 25 feet to a point; thence southerly and at right angles to the last mentioned line and along lands described in Liber 385 of Deeds at page 551 in the Cattaraugus County Clerk's Office, 130 feet to a point.

ALL THAT TRACT OR PARCEL OF LAND in the Village of Gowanda, Town of Persia, County of Cattaraugus and State of New York, further distinguished as part of Lot 26, Town 6 Range 8 of the Holland Land Company's survey, bounded and described as follows: BEGINNING at a point on the east side of Broadway Road, being the east line of Lot 26, and the west line of Lot 16; thence west at an interior angle of 88 degrees 10 minutes along the southerly bounds of lands now or formerly owned by Walter Kota, 382.05 feet to a set stake.

It is the recommendation of the Planning Board that the property be zoned B1 for electronic and small electric parts manufacturing and machine shop for small parts, both light manufacturing which will suit Gowanda Electronics' needs and not affect the residences located there. The total property will be bounded by:

North: boundary line of property owned by Walter Kota
South: I1 zoning of property owned by Gernatt Gravel
East: boundary line of property owned by Martin Voncina, Jr.
West: I1 zoning of property owned by Gernatt Gravel

The Zoning Map was amended by Local Law #3, 1994 as follows:

1. That the Zoning Map of the Village of Gowanda, New York is hereby amended and changed so that the following described property formerly owned by Donald R. Anckner and heretofore occupied as a one family house and vacant lot presently located in the B-2 District,

Neighborhood Business District, is reclassified and changed to the B-1 General Business District.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, Town of Collins, County of Erie and State of New York, begin part of Lot No. 37, Township 6, Range 8 of the Holland Land Company's Survey, described as follows:

BEGINNING at a point in the center of highway leading from Gowanda to Collins Road, known as Sand Hill Road formerly (Allen Street or Brick Hill); thence along the centerline of Sand Hill Road N 68 degrees 00 feet E a distance of 334.39 feet to a point on the westerly right of way line of the Erie and Lackawanna Railroad Company; thence along said right of way line S 15 degrees 07 feet 33 inches E a distance to 393.65 feet to a point; thence along the dividing line of property herein described and land now or formerly Bernice M. Hines [*] 88 degrees 59 feet 42 inches W a distance to 383.50 feet to a point in the center line of Buffalo Street; thence along the centerline of Buffalo Street N 06 degrees 23 feet 51 inches W a distance of 263.11 feet to a point at the place of beginning; containing an area of 115,571.520 S.F. or 2.653 acres.

The Zoning Map of the Village of Gowanda, New York is hereby amended and changed [per Local Law #1 of 1996] so that the following described property formerly owned by William Gugino and heretofore occupied as a one family house presently located in the \$-2 District, Residential District, is reclassified and changed to the R-2, Neighborhood Business District.

ALL THAT TRACT OR PARCEL OF LAND, situate in the Village of Gowanda, County of Cattaraugus and State of New York, begin part of Lot 27, Township 6, Range 8, of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING in the east bounds of North Chapel Street distant 125.73 feet northerly of its intersection with the north bounds of Main Street, said point of beginning being the northwest corner of lands conveyed to William H. Stuart by deed record in Liber 80 of Deeds at Page 75, thence northerly along the east bounds of North Chapel Street, a distance of 78.75 feet to the southwest corner of William A. Fish by deed recorded in Liber 57 of Dees at Page 15; thence easterly along the south line of lands so conveyed to said Fish, a distance of 129.30 feet to the southeast corner thereof in the west line of lands conveyed to Harvey Little by deed recorded in Liber 83 of Deeds at Page 125; thence southerly along the west line of lands so conveyed to said Little, a distance of 57.86 feet to the northeast corner of lands so conveyed to said Stuart; thence westerly along the north line of lands so conveyed to said Stuart, a distance of 140.96 feet to the place of beginning.

The Zoning Map of the Village of Gowanda is hereby amended and changed [per Local Law No. 2 of 1997] so that the following described property reputedly owned by William Gugino and heretofore occupied as a vacant parcel located in an R-2 District, Residential District, is hereby reclassified to the B-2 District, General Business District:

ALL THAT TRACT OR PARCEL OF LAND situate in the Village of Gowanda, Town of Collins, County of Erie and State of New York, bounded and described as follows:

BEGINNING in the eastern boundary line of Aldrich Street Extension at its intersection with their rear lot line of the houses on Caroline Road; thence easterly along the rear lot lines of the houses on Caroline Road a distance of 210 feet; thence southerly at right angles a distance of 190 feet; thence westerly a distance of 210 feet to the easterly boundary line of Aldrich Street Extension 190 feet to the point or place of beginning.

ADDITIONAL REQUIREMENT OF B-1 DISTRICT CLASSIFICATION

- A. Applicant to submit plan to the Village Building Inspector concerning the landscape area between the rear yards of Caroline Road and the property to be rezoned for a buffer. No construction of any building shall be closer to the rear lot line of the residents on Caroline Road than ten feet.
- B. Permitted use is a funeral home.

That the Zoning Map of the Village of Gowanda, New York, is hereby amended and changed [per Local Law #2 of 1999] so that the property described as 103 Beech Street, heretofore occupied as B-2 neighborhood business classification is reclassified and changed to \$-3 multiple and two family residential.

- C. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:
 1. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
 2. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given, such dimension shall be determined by the use of the scale down on said zoning map.

3. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
4. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.
5. Where the boundary of a district follows a stream, lake, or other body of water said boundary line shall be deemed to be the limit of the jurisdiction of the Village unless otherwise indicated.

§30.22 R-1 Districts, One Family Residential Districts, Regulations

The following regulations shall apply in all R-1 districts.

- A. Uses permitted. Any use not herein specified is not permitted.
 1. One family dwelling.
 2. Churches or similar places of worship, parish house, convents.
 3. Public parks, public playgrounds and recreational areas operated by membership organizations for the benefit of their members and not for gain.
 4. Public and parochial schools and institutions of higher education, public libraries, municipal buildings.
 5. Customary agricultural operations include a garden, nursery, greenhouse and usual farm buildings, subject to the following restrictions:
 - a. No building in which farm animals are kept shall be closer than one hundred (100) feet to any adjoining lot line.
 - b. No storage of manure or odor or dust producing substances or use shall be permitted within one hundred (100) feet of any adjoining lot line.
 - c. No greenhouse heating plant shall be operated within fifty (50) feet of any adjoining lot line.
 - d. No products shall be publicly displayed or offered for sale from the roadside.
 6. Other customary accessory uses and buildings provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.
 7. Recreation or vacation trailers may be located and used in the Village for a period not to exceed thirty (30) consecutive days, providing a special permit has been obtained from the Building Inspector. Individual recreation trailers owned by residents of the Village may be stored on the property of the owner provided that no residence is taken therein or business conducted therewith.
 8. Cemetery and the necessary incidental structures, upon approval of the Board of Appeals and subject to such conditions and safeguards as deemed appropriate by such Board and upon the securing of a permit therefore.

- B. Building height limit and minimum floor area: No building shall be erected to a height in excess of forty (40) feet measured from natural grade per the New York State regulations and with a minimum floor area in R-1 districts of one thousand (1,000) square feet of floor space.
- C. Minimum required lot area: 75' x 150'
- D. Percentage of lot coverage: All buildings, including accessory buildings shall not cover more than thirty (30) percent of the area of the lot.
- E. Yards required: Each lot shall have front, side and rear yards not less than the depths or width following:
 - 1. Front yard depth thirty (30) feet from curb line.
 - 2. Each side yard width ten (10) feet
 - 3. Rear yard depth – fifty (50) feet

§30.23 R-2 Districts, One and Two Family Residential Districts, Regulations

The following regulations shall apply in all R-2 districts.

- A. Uses permitted:
 - 1. All uses permitted in R-1 district.
 - 2. Two family dwelling.
 - 3. Customary home occupations, provided that there shall be no external evidence of such occupations except a small announcement or professional sign not over two (2) square feet in area.
 - 4. Any use not herein specified is not permitted.
- B. Building height limit and minimum floor area: No building shall be erected to a height in excess of forty (40) feet measured from natural grade per the New York State regulations and a minimum floor area in R-2 districts shall be a minimum eight hundred (800) square feet of floor space per family dwelling (2 family = minimum 1600 square feet).
- C. Percentage of lot coverage: All buildings including accessory buildings shall not cover more than forty (40) percent of the area of the lot.
- D. Yards required: Each lot shall have front, side and rear yards not less than the depths or width following:
 - 1. Front yard depth thirty (30) feet from curb line.
 - 2. Side yard width, minimum six (6) feet, but not less than fifteen (15) feet total, both sides.
 - 3. Rear yard depth – thirty (30) feet.
 - 4. Hospitals, sanitariums, rest homes, philanthropic and charitable institutions and similar uses upon approval of the Planning Board and Board of Trustees.

§30.24 R-3 Districts, Multiple Residential Districts

The following regulations shall apply in all R-3 districts.

- A. Uses permitted:
 - 1. All uses permitted in R-1 and R-2 districts.
 - 2. Multiple family dwelling.
 - 3. Tourist home.
 - 4. Clubs and lodges, excepting such clubs and lodges the chief activity of which is a service customarily carried on as a business or primarily for gain. In conjunction with such club or lodge a dining room may be permitted provided it is incidental to the activities of said club or lodge and is conducted for the benefit of the members thereof only, and further provided no sign is displayed advertising such activity.
 - 5. Fraternity and sorority houses.
 - 6. Any use not herein specified is no permitted.
- B. Building height limit: Three (3) stories but not exceeding forty (40) feet measured from natural grade per the New York State regulations.
- C. Percentage of lot coverage: All buildings including accessory buildings shall not cover more than fifty (50) percent of the area of the lot.
- D. Yard required: Yards of the following minimum depths shall be provided:
 - 1. Front yard – thirty (30) feet from curb line.
 - 2. Side yard, six (6) feet but not less than fifteen (15) feet total both sides, except for buildings over twenty-five (25) feet in height, one foot additional for each two feet or fraction thereof of height over twenty-five (25) feet.
 - 3. Rear yard, thirty (30) feet.
- E. Automobile storage or parking space: In connection with every multiple-family dwelling there shall be provided automobile storage or parking space equal to not less than three hundred (300) square feet for each family unit in such dwelling, provided, however, that no front yard shall be used for the open-air parking or storage of any vehicle.

§30.25 B-1 Districts, General Business Districts, Regulations

The following regulations shall apply in all B-1 districts.

- A. Uses permitted:
 - 1. Stores and shops for the conduct of any retail business.
 - 2. Personal service shops, hand laundries.
 - 3. Banks, offices, studios.
 - 4. Shops for custom work. Shops for making articles or products to be sold at retail on the premises.

5. Restaurants, cafes, tea rooms and similar establishments.
6. Theaters, assembly halls, billiard or pool parlors, bowling alleys or other public recreation uses.
7. Hotels.
8. Motor vehicle salesrooms.
9. Garage or filling station.
10. Funeral directing.
11. Parkway or bus passenger station, telegraph office, electric substation, printing plant candy shop and machine shop.
12. Wholesale business: Storage in bulk or warehouse for such material as building material, contractors' equipment, clothing, cotton, drugs dry goods, feed, food, furniture, hardware, ice, machinery, metals, oil and petroleum in quantities less than tank car lots, paint and paint supplies, pipe, rubber, ship supplies, tobacco or wood.
13. Accessory buildings and accessory uses.
14. Any use not herein specified is not permitted; this includes but is not limited to conversion of the first floor business areas into individual or multiple dwelling areas and including those uses that would fall under the Medical Facilities Districts due to the conducting of a business use permitted therein.

B. Uses permitted with a special use permit subject to requirements of Section 30.45:

1. Any use of a light industrial nature is permitted which involves only the processing, assembly, packaging or storage of previously refined materials, provided that at no time will such use result in or cause:
 - a. Dissemination of noise, vibration, odor, dust, smoke, observable gas or fumes, or other atmospheric pollutant beyond the boundaries of the immediate site of the building in which such use is conducted.
 - b. Hazard of fire or explosion or other physical hazard to any person, building or vegetation.
 - c. Radiation or interference with radio or television reception beyond the boundaries of the immediate site of the building in which such use is conducted, or scientific testing of instruments which required the flying of aircraft in the vicinity in such manner as to constitute a public nuisance.
 - d. A harmful discharge of waste material.
 - e. Unusual traffic hazards or congestion, due to type or number of vehicles required: No radio or television towers or radar screen shall be erected without specific approval of the Board of Appeals which shall give due regard to the effect of any installation upon public safety or health and the harmonious relations of such installations with regard to the surrounding land and buildings.
2. The following uses are examples which may be permissible:
 - a. Bakers and baked goods manufacturing provided that adequate safeguards against the dissemination of odor are provided:
 - 1) Bookbinders, engravers, lithographers
 - 2) Clock and watch manufacturing
 - 3) Electronic and electrical small parts manufacturing

- 4) Furniture repairs, finishing and upholstering
 - 5) Jewelry manufacturing
 - 6) Machine shops for small parts
 - 7) Optical goods manufacturing.
 - b. Fabrication of paper products such as, but not limited to: packaging material, offices and household supplies, stationery, toys, etc.
 - c. Fabrication of wood and wood and metal products such as but not limited to: boats, boxes, homes, cabinets and woodworking, furniture and toys, etc.
 - d. Food and associated industries such as, but not limited to: bakeries, bottling of food and beverages, food and cereal mixing and milling, food processing, food sundry manufacturing, etc.
 - e. The manufacturing and processing of pharmaceutical and cosmetic products.
 - f. The manufacturing and processing of plastics and chemical products.
- C. Building height limit: No building shall be erected to a height in excess of fifty (50) feet.
- D. Required lot area: No minimum.
- E. Percentage of lot coverage: No minimum.
- F. Yards required:
- 1. Front yard – none required.*
 - 2. Side yards – not required except that where lot adjoins another district the side yard requirements of the adjoining district must be followed.
- G. Setback for B-1 district: No building shall be erected or altered to be nearer the street line upon which it fronts, than the average setback of any business building on the same side of the street within the block.
- H. Off-street parking: Automobile storage and parking space shall be one space for each two hundred (200) feet of floor area in retail use.

§30.26 B-2 Districts, Restricted Business Districts, Regulations

The following regulations shall apply in all B-2 districts.

- A. Uses permitted.
- 1. Mobile homes located in mobile home parks of not less than twenty (20) acres. Individual mobile home lots shall conform to all required area, coverage and yard restrictions for single family dwellings in R-3 residential districts.
 - 2. Stores and shops for the conduct of any retail business.
 - 3. Personal service shops, hand laundries.
 - 4. Banks, offices, studios.

5. Shops for custom work, for making articles or products to be sold at retail on the premises.
 6. Funeral directing.
 7. Accessory buildings and accessory uses.
 8. Any use not herein specified is not permitted.
- B. Uses permitted with special use permit subject to requirements of §30.45.
1. Any use of a light industrial nature is permitted which involves only the processing, assembly, packaging or storage of previously refined materials, provided that at no time will such use result in or cause:
 - a. Dissemination of noise, vibration, odor, dust, smoke observable gas or fumes or other atmospheric pollutant beyond the boundaries of the immediate site of the building in which such use is conducted.
 - b. Hazard of fire or explosion or other physical hazard, to any person, building or vegetation.
 - c. Radiation or interference with radio or television reception beyond the boundaries of the immediate site of the building in which such use is conducted, or scientific testing of instruments which required the flying of aircraft in the vicinity in such manner as to constitute a public nuisance.
 - d. A harmful discharge of waste materials.
 - e. Unusual traffic hazards or congestion, due to type of vehicles required.

No radio or television towers or radar screen shall be erected without specific approval of the Board of Appeals which shall give due regard to the effect of any installation upon public safety or health and the harmonious relations of such installation with regard to the surrounding land and buildings.

2. The following uses are examples which may be permissible:
 - a. Bakers and baked goods manufacturing provided that adequate safeguards against the dissemination of odor are provided.
 - 1) Bookbinders, engravers, lithographers.
 - 2) Clock and watch manufacturing.
 - 3) Electronic and electrical small parts manufacturing.
 - 4) Furniture repairs, finishing and upholstering.
 - 5) Jewelry manufacturing.
 - 6) Machine shops for small parts.
 - 7) Optical goods manufacturing.
 - b. Fabrication of paper products such as, but not limited to: packaging material, office and household supplies, stationary, toys, etc.
 - c. Fabrication of wood and wood and metal products such as, but not limited to: boats, boxes, homes, cabinets and woodworking, furniture and toys, etc.

*See §30.35 for front yard transition requirements.

- d. Food and associated industries such as, but not limited to: bakeries, bottling of food and beverages, food and cereal mixing and milling. Food processing, food sundry manufacturing, etc.
 - e. The manufacturing and processing of pharmaceutical and cosmetic products.
 - f. The manufacturing and processing of plastics and chemical products.
- C. Building height limit: Three (30 stories but not exceeding forty (40) feet.
- D. Percentage of lot coverage: All buildings including accessory buildings shall not cover more than fifty (50) percent of the area of the lot.
- E. Yards required: Each lot shall have front, side and rear yards not less than the depths or width following:
- 1. Front yard - (See Subdivision F of this section).
 - 2. Side yard-width - minimum of six (6) feet, but less than fifteen (15) feet total.
 - 3. Rear yard depth - thirty (30) feet.
- F. Setback for B-2 districts: No building shall be erected or altered to be nearer the street line upon which it fronts than the average setback of any building on the same side of the street within the block.
- G. Off-street parking: Automobile storage and parking space shall be one space for each two hundred (200) square feet of floor area in retail use.

§30.27 I-1 Districts, General Industrial Districts, Regulations*

The following regulations shall apply in all I-1 districts.

- A. Uses permitted.
- 1. All industrial uses not otherwise prohibited by law.
 - 2. Junk yards or automobile wrecking yards, scrap iron, scarp paper or rag storage, sorting or baling, provided they are conducted within a building or where entirely enclosed within a solid fence at least six (6) feet high.
- B. Uses prohibited.
- 1. All uses of land, buildings and structures or industrial processes that may be noxious or injurious by reason of the production or emission of dust, smoke, refuse matter, odor, gas provided, however, that any uses may be permitted if approved by the Board of Appeals and subject to the securing of a permit therefore and to such conditions, restrictions and safeguards as may be deemed necessary by said Board for the purpose of protecting health, safety, morals or the general welfare of the community.
 - 2. Any use not herein specified is not permitted.
- C. Building height limit: Three (3) stories or fifty (50) feet.

D. Yards required.

1. There shall be a side yard along the side of every lot in a I-1 district not less than ten (10) feet provided, however, any lot bordering a residential district on a side yard shall have a side yard of a width not less than ten (10) feet or the minimum width as required in said adjacent residential district, whichever is greater.
2. There shall be a side yard on every lot of an I-1 district of not less than twenty-five (25) feet. *See Subdivision B of §30.25 and Subdivision B of §30.26 which permit, under a special use permit, certain light industries in the B-1, General Business Districts and B-2, Restricted Business Districts, respectively.
3. Every building or portion thereof which is designed, intended to be used or is used for dwelling purposes shall comply with the front, side and rear yard requirements of the least restricted district in which such dwellings are permitted.

E. Lot area and percentage of lot coverage of dwellings: All regulations as to required lot area and percentage of lot coverage which are prescribed for the least restricted residential district shall apply to all dwellings thereafter erected in any I-1 district.

F. Off-street parking.

1. Automobile storage and parking space shall be one space for each employee for maximum number of employees on any one shift.

§30.28 Planned Development Districts

In planned development districts established as hereinafter provided, land and buildings may be used for any lawful purpose including, but not restricted to garden apartments, shopping centers and motels as authorized by the Village Board, in compliance with the following procedure:

- A. Planned development districts shall comprise at least three (3) acres.
- B. Application for establishment of a planned development district shall be made to the Village Board. The Village Board shall refer the application to the Village Planning Board for consideration.
- C. The Planning Board shall require the applicant to furnish such preliminary plans, drawings and specifications as may be required for an understanding of the proposed development. In reaching its decision on the proposed development, the Planning Board shall consider among other things, the need for the proposed use in the proposed locations, the existing character of the neighborhood in which the use would be located and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.
- D. The Planning Board shall approve the modifications or disapprove such application and shall report its decision to the Village Board.

- E. The Village Board shall hold a public hearing on the proposal, with public notice as provided by law in the case of an amendment to this Chapter.
- F. The Village Board may then amend this Chapter so as to define the boundaries of the Planned Development District, but such action shall have the effect only if granting permission for development of the specific proposed use in accordance with the specifications, plans and elevations filed with the Village Board. In the event the Planning Board has disapproved such proposal, or approved with modification which the applicant is not willing to make, an affirmative vote of at least three (3) members of the Village Board shall be required to establish such Planned Development District. No Planned Development District shall be established without a public hearing and notice provided for in Paragraph 5 of this section.

§30.29 MF Districts, Medical Facilities Districts, Regulations

The following regulations shall apply to all MF districts.

- A. Uses permitted.
 - 1. Hospitals.
 - 2. Medical and dentistry offices or any office used to conduct practice of those businesses, such as a clinic or urgent care facility, including provisioning of mental health services and counseling.
 - 3. Accessory buildings and accessory uses.
 - 4. Any use not herein specified is not permitted.
- B. Building height limit: Two stories but not exceeding thirty-five (35) feet.
- C. Minimum floor area: Eight hundred (800) square feet.
- D. Percentage of lot coverage: All buildings include accessory buildings shall not cover more than forty (40) percent of the area of the lot.
- E. Yards required: Except as provided in Paragraph 4 of this Subdivision, each lot shall have front, side and rear yards not less than the following depths and widths:
 - 1. Front yard depth – one hundred (100) feet from curb line.
 - 2. Side yard width – minimum six (6) feet but not less than fifteen (15) feet total, both sides.
 - 3. Rear yard depth – thirty (30) feet.
 - 4. Exceptions: The above side yard requirements shall not apply to areas occupied by walk-through structures connecting buildings in the district which are in separate ownership and which are located on separately owned parcels of land (as, for example, connecting structures between medical office buildings and a hospital). No yards shall be required for a side of a building abutting on the lot line between it and a building to which it is interconnected.

- F. Off-street parking: Automobile storage and parking space shall be one space for each one-hundred fifty (150) square feet of building area excluding building area used for such automobile storage and parking.. [§30.29 added LL #1, 1992.]

ARTICLE III GENERAL PROVISIONS

§30.31 Non-Conforming Uses

The lawful use of any building or land existing at the time of the enactment of this Chapter may be continued. A non-conforming use shall not be extended or enlarged, or non-conforming building constructed or reconstructed, except as a special exception by the Board of Appeals as hereinafter provided.

§30.32 Change of Non-Conforming Use

- A. Restrictions: Any land, premises, building or structure arranged or designed for or devoted to a non-conforming use of a building, structure, premises or land is hereinafter changed to a more restrictive use classification it shall not thereafter be changed to a less restrictive classification. For the purpose of this Subdivision, a use shall be deemed changed for a more restrictive use classification if the new use be one that is permitted in a section of this Chapter with a lower number the section under which the former use was permitted.
- B. Non-conforming use discontinued: In any district, whenever a non-conforming use of land, premises, building or structure or any part or portion thereof, has been discontinued for a period of one year, such non-conforming use shall not thereafter be established, and all future use shall be in conformity with the provisions of this Chapter. Such discontinuance of the active and continuous operation of such non-conforming use or part or portion thereof, for such period of one year, is hereby construed and considered to be an abandonment of such non-conforming use, regardless of any reservation of intent not to abandon same or to intent to resume active operations. If actual abandonment in fact is evidence of such non-conforming use of the land and premises, the abandonment shall be construed to be completed within a period of less than one year and all rights to re-establish or continue such non-conforming use shall thereupon terminate,

§30.33 Outdoor Advertising Signs or Displays Devices

No such sign shall advertise commodities or services other than those available for sale, hire or use on the premises. The aggregate area of all signs affixed to buildings shall not exceed fifteen percent (15%) of the area of the building front to which signs are affixed. Free-standing signs are permitted provided the area of any such sign does not exceed thirty (30) square feet and provided that no such sign is hazardous to persons or property by reason of obstruction of visibility or for any other reason.

§30.34 Visibility at Intersections

On corner lots, no fence, wall, hedge or other structures or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular area formed by the intersecting street lines and a straight line adjoining said street lines at points which are thirty (30) feet distance from the point of intersection measured along said street lines.

§30.34 of Chapter 30 entitled "Zoning: is hereby amended per Local Law No. 4 of 1998" to read as follows:

- A. Fences, walls or other structures in Residential and Medical Facilities Districts (R-1, R-2, R-3 and MF).
 - 1. No fence, wall or other structure shall exceed six (6) feet in height in the rear and side yards and no more than four feet in the front yard.
 - 2. Fences, walls or other structures can be located on the property lines.
 - 3. The decorative site of any fence, wall or other structure shall face out away from the principal building or structure.
 - 4. No decorative or stockade fence, wall or structure shall be erected on any lot without a building permit issued by the Building Inspector.
 - 5. The Building Inspector may require the applicant to submit plans and specifications and a survey map of the premises of any proposed fence, wall or structure in such detail as may be reasonably necessary for consideration by the Building Inspector. No such structure would be allowed if it is determined to interfere with fire prevention.

- B. Fences, walls and other structures in Business and Industrial Districts (B-1, B-2 and I-1): No fence, wall or other structure used to separate one lot from another lot shall exceed eight (8) feet in height.

- C. Barbed wire fences: No barbed wire fence shall be erected or used except in the I-1 Industrial District and then only at the top of a fence over six (6) feet in height.

- D. Visibility at intersections: On corner lots, no fence, wall, hedge or other structures or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular area formed by the intersecting street lines and a straight line adjoining said street lines at points which are thirty (30) feet distant from the point of intersection measured along said street lines.
- E. Unconstitutionality or Illegality: If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.
- F. Effective Date: This local law shall take effect upon filing in the office of the Secretary of State but this local law shall take effect from the date of its service as against a person served personally with a copy thereof, certified by the Village Clerk, and showing the date of its passage and entry in the minutes.

§30.35 Front Yard Transition

Where a business or industrial district abut a residential district and both districts have frontage along a block side, there shall be provided for distance of fifty (50) feet from the district boundary line into such business or industrial district a front yard equal in depth to one-half o the required front yard depth for such residential district. Such districts shall be separated by a six (6) foot stockade type fence or equal to insure privacy of residential districts.

§30.36 Height Exceptions

The limitations of height shall not apply to chimneys, antennas, ventilators, skylights, tanks, silos and other necessary features usually carried above roofs, nor to towers or spires of churches.

§30.37 Side Yards for Corner Lots

On every corner lot in residential districts there shall be provided on the side street a side yard equal in depth to the required front yard depth on said side street.

§30.38 Porches, Steps and Terraces

Any porch, steps or terrace exceeding thirty-five (35) square feet in area on any porch, steps or terrace supported by continuous foundation shall be considered part of a building and shall not occupy any required yard. An unenclosed entrance porch or steps not exceeding thirty-five (35) square feet in area may project into a required yard a distance not to exceed five (5) feet.

§30.39 Dwelling on Pre-Existing Undersize and Corner Lots

- A. A building permit may be granted only by the Board of Appeals after a public hearing for construction of a dwelling on a pre-existing undersize or corner lot provided the following conditions are met:
 - 1. The lot was held in single and separate ownership on August 5, 1968, the date of adoption of the ordinance from which this Chapter is derived.
 - 2. The lot does not adjoin any other lot or lots held by the same owner.
- B. The Board of Appeals may waive side and rear yard requirements and may impose such conditions as it deems necessary to carry out the purpose and intent of this Chapter.

§30.40 Lot Area Reduction

No lot area shall be so reduced that the dimensions of areas of any of the open spaces shall be smaller than as herein provided.

ARTICLE IV ENFORCEMENT

§30.41 Enforcement Provisions

This Chapter shall be enforced by a Building Inspector who shall be appointed as provided in Chapter 26 (§26.21) of this Municipal Code. The powers and duties of the Building Inspector shall be:

- A. Examine and approve applications pertaining to the use of land, buildings or structures when the applications conform with the provisions of this Chapter.
- B. Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the provisions of this Chapter.
- C. Receive, file and forward for the appropriate action all applications for special use, variations and amendments to this Chapter which may be filed in the office of the Village Clerk.
- D. Maintain in the office of the Village Clerk permanent and current records of this Chapter including all maps amendments, special uses and variations.

§30.42 Building Permits*

- A. No building or structure shall be erected, added to, or structurally altered until a permit therefore has been issued by Building Inspector except upon a written order from the Board of Appeals. No such building permit or certificate of occupancy shall be issued for any building where said construction, addition or alteration of use thereof would be in violation of any of the provisions of this Chapter.
- B. There shall be submitted with all applications for building permits two (2) copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon to the exact size and location on the building necessary to determine and provide for the enforcement of this Chapter.
- C. One copy of such layout or plot plan shall be returned when approved by the Building Inspector together with such permit to the applicant upon the payment of the fee as provided in Chapter 26 of this Code.

§30.43 Certificate of Occupancy*

No building hereafter erected, altered and extended shall be used or changed in use; no land shall be maintained until a certificate of occupancy shall have been issued by the Building Inspector stating that the use thereof complied with the provisions of this Chapter or existed prior to its passage and as further provided in Chapter 26 of this Code.

§30.44 Board of Appeals

The Village Board, pursuant to the provisions of the Village Law applicable thereto, shall appoint a Board of Appeals consisting of three (3) members. The terms of office shall be three (3) years, excepting that the three (3) members first appointed shall be continued for the terms for which they are appointed. Such Board of Appeals, subject to provisions of the Village Law, shall determine its own rules of procedures.

- A. Notice of appeal to Board of Appeals: Upon the filing with the Board of Appeals, of an appeal or of any application for special exception or variance from the terms of this Chapter accompanied by a fee as established by the Board of Trustees of the Village of Gowanda**, the Board of Appeals shall thereupon fix a time and place for a public hearing thereon and shall give notice thereof as follows:
 - 1. By publishing a notice thereof at least ten (10) days prior to the date of such hearing in a newspaper of general circulation published in the Village.

*See also §26.31 et seq.

**See Chapter 26, §26.34(G) for amount of fee.

2. By mailing a notice thereof to every Association of Residents of the Village who shall have registered its name and address for this purpose with the Board of Appeals.
- B. Powers of the Board of Appeals: The Board of Appeals may, in a specific case, after due notice and public hearing as provided by law:
1. Interpret the meaning of this Chapter in cases of uncertainty as to the meaning of any of its provisions.
 2. Review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this Chapter.
 3. Vary or modify the application of the provisions of this Chapter subject to appropriate conditions and safeguards where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this Chapter so that the spirit of this Chapter shall be observed, public safety and welfare secured and substantial justice done. Such hardship shall be due to the unique circumstances of the parcel of land for which a variance is required. Variances may only be granted where the essential character of the district in which located will not be materially altered.
 4. Grant a permit, subject to appropriate conditions and safeguards, wherever, it is provided in this Chapter that the approval of the Board of Appeals is required. In such cases, the Board of Appeals shall determine that a need for such use exists and to withhold a permit would cause practical difficulties or unnecessary hardship without compensating benefit to the community.

§30.45 Permitted Special Uses

- A. General Provisions: The special purpose for which conformance to additional standards is required shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standard set forth herein, in addition to all other requirements of this Chapter. All such uses are hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- B. Required Plan: A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special permit, and such plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed special use meets the requirements of this Chapter.
- C. Expiration: A special permit shall be deemed to authorize only one particular special use and shall expire if the special use shall cease for more than six (6) months for any reason.
- D. Existing Violations: No permit shall be issued for a special use for a property where there is no existing violation of this Chapter.

- E. Standards applicable to all special uses:
 - 1. The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to it, and the location of the site with respect to the existing or future streets giving access to it, shall be such that it will be in harmony with the orderly development of the district, and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
 - 2. Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibration or flashing lights, than would be the operations of any permitted use.

- F. Review by Planning Board: All applications under this section shall be referred by the Board of Appeals to the Planning Board for their review and recommendation before final action shall be taken by the Board of Appeals. Failure of the Planning Board to make a report within thirty (30) days after referral shall be deemed to be an approval of the application unless the time to make such report is extended by the Board of Appeals.

ARTICLE V AMENDMENTS

§30.51 Amendments

- A. All amendments to this Chapter shall be in accordance with the provisions of the Village Law applicable thereto. Any proposed amendment shall be submitted to the Village Planning Board for report and recommendation prior to final action thereon by the Village Board.

- B. Any proposed amendment by a private individual or corporation shall be submitted to the Village Board of the Village of Gowanda accompanied by a fee of twenty-five dollars (\$25.00) and a map of premises affected.

- C. At least every third year after the enactment of this Chapter or the change of the location of district boundary lines the Planning Board shall submit a report to the Village Board recommending such changes or amendments, if any, which may appear desirable in the interest of public welfare, convenience or necessity.

ARTICLE VI VIOLATIONS

§30.100 Violations and Penalties

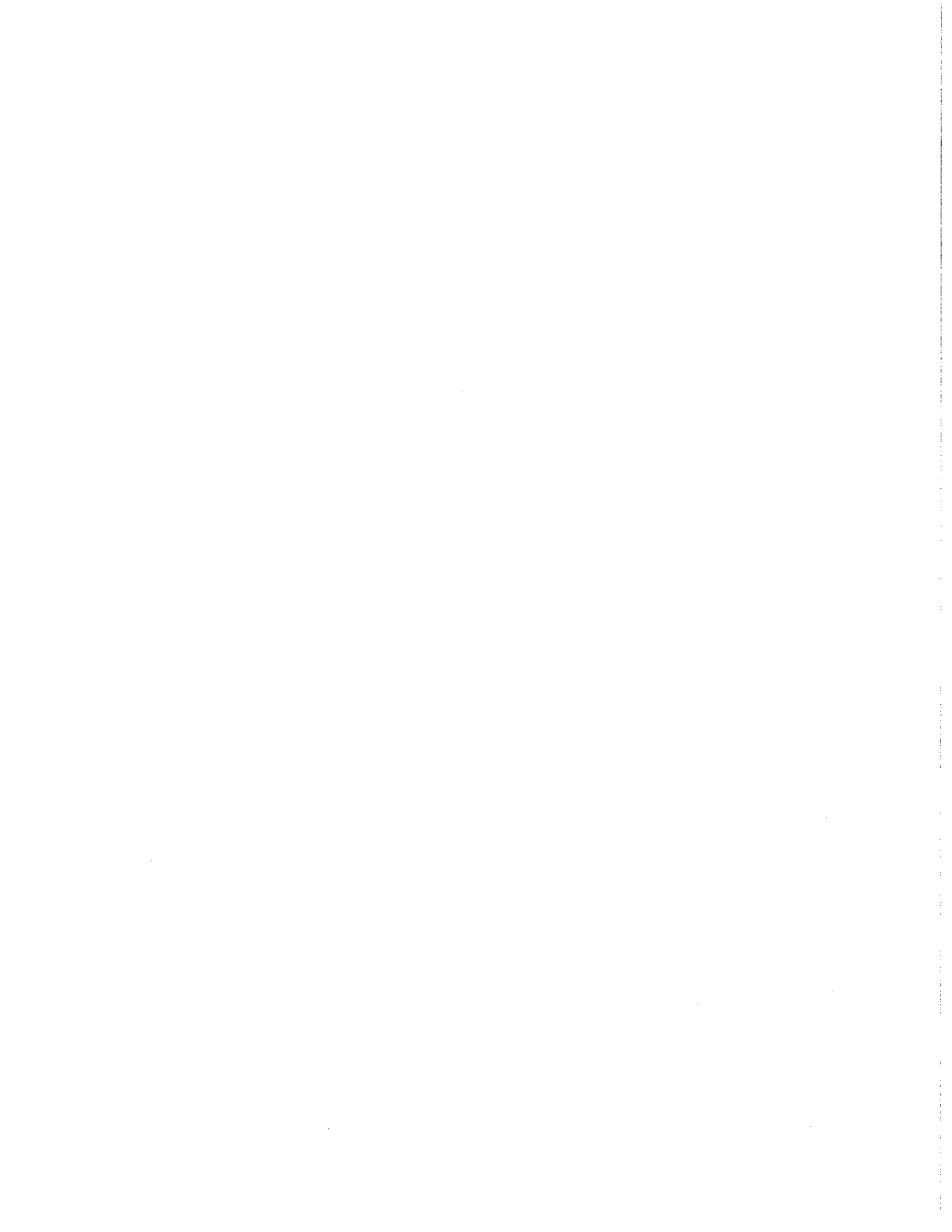
A violation of any of the provisions of this Chapter shall be a violation and any person violating any of the provisions hereof shall, upon conviction, be punished by a fine not exceeding two hundred fifty dollars (\$250.00) for each violation.

Cross-references:

Adoption of amendments. See Checklist p. x; Chapter 100
Building Code Enforcement. Chapter 26.
 Building permits. §§26.31-26.35.
 Fees. §26.34
 Certificates of occupancy. §§26.41-26.44.
 Stop orders. §26.36.
Housing Code. Chapter 27.
Subdivision Regulations. Chapter 31.
Swimming Pools. Chapter 35.
Unsafe Buildings. Chapter 33.

References:

Amendment to zoning law must be in accordance with a "comprehensive plan."
 Albright v. Town of Manlius, 34 AD2d, 419, mod. 28 NY2d 108.
Board of Appeals. Vil L §7-712.
Changes. Vil L §7-70-8.
Constitutional limitation. Selega Enterprises v. Town of Vestal, 36 AD2d 483.
Constitutionality of zoning law cannot be determined in an Article 78 proceeding.
 Mtr of Overhill Bldg. Co. V. Delany, 28 NY2d 449.
Delegation of powers by Board of Trustees, Vil L §4-412(1).
Grant of power, Vil L §7-700.
Method of procedure to enact, § Vil L §7-706.
Planning Board, Vil L § 7-718.
Referral to County Planning Board, Gen Mun L § 239-m.
Search warrants, see p. 26.16.
Variance, rules to obtain, Otto v. Steinhilber, 282 NY 71; Fulling v. Palumbo, 21 NY2d 30,
 34; Mtr. Cherry Hill Homes v. Barbieri, 28 NY2d 382, 385. Mtr. Forest v. Evershed
 7 NY2d 256.



CHAPTER 31 SUBDIVISION REGULATIONS

ARTICLE I SUBDIVISION REGULATIONS

§31.1 Definitions

For the purpose of these regulations, which shall be known as and may be cited as "Village of Gowanda Subdivision Regulations," certain words herein are defined as follows:

- A. Subdivision: The term "subdivision" means the division of any parcel of land into two or more lots, plots, sites or other divisions of land for immediate or future sale of for building development. It shall not include, however, any boundary line adjustment between two adjoining lots in conformance with Chapter 30, Zoning.
- B. Streets and Alleys: The term "street" means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, through fare, road, avenue, boulevard, land, place or however otherwise designated.
 - 1. Arterial streets and highways are those which are used primarily for fast and heavy traffic.
 - 2. Collector streets are those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of residential development and streets for circulation within such a development.
 - 3. Minor streets are those which are used primarily for access to the abutting properties.
 - 4. Alleys are minor ways which are used primarily for vehicular service to the back or the side of properties otherwise abutting on a street.
 - 5. Marginal access are those ways paralleling a more heavily traveled street, separated by a mall or planted area and to which minor streets adjoin, generally at right angles.

§31.2 Procedures

- A. Pre-application procedure:
 - 1. Previous to the filing of an application for conditional approval for the preliminary layout, the subdivider shall submit to the Planning Board plans and data as specified in §31.5. This step does not require formal applications, fee or filing of plat with the Planning Board.

2. Within forty-five (45) days the Planning Board shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the Planning Board find the plans and data do not meet the objectives of these regulations, it shall express its reasons therefore.
- B. Procedure for conditional approval of preliminary layout:
1. On reaching conclusions, informally as recommended in "A" above, regarding his general program and objectives, the subdivider shall cause to prepare a preliminary layout, together with improvement plans and other supplementary material as specified in §31.5.
 2. Eight (8) copies of the preliminary layout and supplementary material specified shall be submitted to the Planning Board with written application for conditional approval at least ten (10) days prior to the meeting at which it is to be considered.
 3. Following (a) review of the preliminary layout and other material submitted for conformity thereof to these regulations, and (b) negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the Planning Board shall, within forty-five (45) days, act thereon as submitted, or modified, and if approved, the Planning Board shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefore.
 4. The action of the Planning Board shall be noted on two (2) copies of the preliminary layout, referenced and attached to any conditions determined. One copy shall be returned to the subdivider and the other retained by the Planning Board.
 5. Conditional approval of a preliminary layout shall not constitute approval of the final plat. Rather it shall be deemed an expression of approval to the layout submitted on the preliminary layout as a guide to the preparation of the final plat which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these regulations and conditions of the conditional approval, if any.
- C. Procedure for approval of final plat:
1. The final plat shall conform substantially to the preliminary layout as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary layout which he proposes to record and develop at the time, provided, however, that such portion conform to all requirements of these regulations.
 2. Application for approval of the final plat shall be submitted in writing to the Planning Board at least ten (10) days prior to meeting at which it is to be considered.
 3. Eight (8) copies of the final plat and other exhibits required for approval shall be prepared as specified in §31.5 and shall be submitted to the Planning Board within six (6) months after approval of a preliminary layout; otherwise such approval shall become null and void unless an extension of time is applied for and granted by the Planning Board.

§31.3 Design Standards

A. Streets:

1. The arrangement, character, extent, width, grade and location of all streets shall conform to the Official Map and the Master Plan and shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
2. Where such is not shown in the Official Map or Maser Plan, the arrangement of streets in a subdivision shall either:
 - a. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - b. Conform to a plan for the neighborhood approved or adopted by the Planning Board to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.
3. Minor streets shall be so laid out that their use by through traffic will be discouraged.
4. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
5. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
6. Reserve strips controlling access to street shall be prohibited except where their control is definitely placed in the Village of Gowanda under conditions approved by the Planning Board.
7. Street jogs with center line offsets of less than one hundred and twenty-five (125) feet shall be avoided.
8. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
9. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than one hundred (100) feet for minor and collector streets, and of such greater radii as the Planning Board shall determine for special cases.
10. Streets shall be laid out so as to intersect as nearly as possibly at right angles and no street shall intersect any other street at less than seventy (70) degrees.
11. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or greater radius where the Planning Board may permit comparable cut-offs or chords in place of rounded corners.

12. Street right-of-way widths shall be as shown on the Official Maps or Master Plan and where now shown therein shall be not less than as follows:

<u>Street Type</u>	<u>Right-of-Way Feet</u>
Arterial	80 feet
Collector	60 feet
Minor, for row houses and apartments	60 feet
Minor, for other residences	30 feet
Marginal Access	40 feet

13. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the Planning Board find it will be practicable to require the dedication of the other half when adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

14. Dead-end streets, designed to be so permanently, shall not be longer than five hundred (500) feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least eighty (80) feet, and a street property line diameter of at least one hundred (100) feet.

15. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Planning Board.

16. Street grades, wherever feasible, shall not exceed the following with due allowance for reasonable vertical curves:

<u>Street Type</u>	<u>Percent Grade</u>
Arterial	4%
Collector	6%
Minor	6%
Marginal Access	8%

17. No street grade shall be less than four-tenths (4/10) percent.

B. Alleys:

1. Alleys shall be provided in commercial and industrial districts, except that the Planning Board may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.
2. The width of an alley shall be no less than twenty (20) feet.
3. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.
4. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the Planning Board.

C. Easements:

1. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary.
2. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

D. Blocks:

1. The length, widths and shapes of blocks shall be determined with due regard to:
 - a. Provisions of adequate building sites suitable to the special needs of the type of use contemplated.
 - b. Zoning requirements as to lot sizes and dimensions.
 - c. Needs for convenient access, circulation, control and safety of street traffic.
 - d. Limitations and opportunities of topography.
2. Block lengths shall not exceed nine hundred (900) feet or be less than three hundred (300) feet.
3. Pedestrian crosswalks, no less than ten (10) feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities.

E. Lots:

1. The lot size width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
2. Lot dimensions shall conform to the requirements of the zoning ordinance, and;
 - a. Residential lots where not served by public sewer shall be of a size to meet requirements of Erie and Cattaraugus County Health Department Regulations.
 - b. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
3. Corner lots for residential use shall have extra width to permit appropriate building setback from and orientation to both streets.
4. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.
5. Double frontage and reserve frontage lots, should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access provided along the line of lots abutting such a traffic artery or other disadvantageous use.
6. Side lot lines shall be substantially at right angles or radial to street lines.

F. Public sites and open spaces.

1. Where a proposed park, playground, school or other public use shown in a Master Plan is located in whole or in part in a subdivision, the Planning Board may require the dedication or reservation of such area within the subdivision in those cases in which the Planning Board deems such requirements to be reasonable.
2. Where deemed essential by the Planning Board, upon consideration of the particular type of development proposed on the subdivision and especially in large-scale neighborhood unit developments not anticipated in the Master Plans, the Planning Board may require the dedication or reservation of such other areas or sites of a charter, extent and location suitable to the needs created by such development for schools, parks and other neighborhood purposes.

§31.4 Required Improvements

A. Monuments:

1. Monuments shall be placed at all block corners, angel points, points of curves on streets and at intermediate points as shall be required by the Village Engineer. The monuments shall be of such material, size and length as may be approved by the Village Engineer.

B. Utility and street improvements:

1. Utility and street improvements shall be provided in each new subdivision in accordance with the standards and requirements described in the following schedules.
2. The standard and specifications for each general type of development shall be:
 - a. For apartment, row house and similar multi-family residential types, improvements to be in accord with Standard A.
 - b. For one-family detached dwelling with typical lot widths of seventy-five (75) feet or more, improvements to be in accord with Standard B.
 - c. For commercial, industrial and other types, as determined by the Planning Board with the advice of the Village Engineer.

C. Schedules of required utilities and street improvements:

STANDARD

A	B	C	
X	X		Public water per plans approved by Village Engineer and County Health Department.
X	X		Public sewer per plans approved by Village Engineer and County Health Department.
X	X	X	Arterial Streets: Cross sections in accordance with the Official Map and Maser Plan and as determined by the Village Engineer and the Planning Board.
X	X		Collector Streets: 60 feet r.o.w.; 34 feet pavement; 4 feet sidewalk per side.
X			Minor Streets: 60 feet r/o/w/; 34 feet pavement, 4 feet sidewalk per side.

A	B	C	
X	X		Marginal Access Streets: 40 feet r.o.w.; 24 feet pavement; 4 feet sidewalk on one side.
X	X	X	Streets along development boundaries and streets connecting development with existing improved street system; cross sections as determined by Village Engineer and the Planning Board.
X	X		Grading and center line gradients; per plans and profiles approved by Village Engineer.
X	X	X	Storm sewer system and other drainage improvements; per plans approved by Village Engineer.
X	X		Curb: Where required, upon approval of Village Engineer and Planning Board.
			Curb and Gutter: Where required upon approval of Village Engineer and Planning Board.
			Pavement Base: 12 inch gravel in two (2) six (6) inch layers per approval of Village Engineer.
			Wearing Surface: Double bituminous surface treatment per approval of Village Engineer.
			Sidewalks: 4 inch P.C.C. Monolithic with Broom Finish, per approval of Village Board.
			Street Trees: If any, between sidewalk and house, per approval of Village Engineer
			Street Name Sign: At all intersections, per approval of Planning Board.

§31.5 Plats and Data

A. Pre-application plans and data:

1. General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This information may include data on covenants, land characteristics and available community facilities and utilities; and information describing the subdivisions proposal such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park area and other public areas, proposed protective covenants and proposed utilities and street improvements.
2. Location map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. Include development name and location; main traffic arteries; public transportation; shopping centers; elementary and high schools; parks and playgrounds; principal places of employment; other community features such as railroad stations, airports, hospital and churches; title; scale; north arrow and date.
3. Sketch plan on topography survey shall show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan may be a free-hand pencil sketch made directly on a print of the topographic survey. In any event the sketch plan shall include either the existing

topographic data listed in paragraph 1 of Subdivision B below or such of these data as the Planning Board determines is necessary for its consideration of the proposed sketch plan.

B. Plat and data for conditional approval.

1. Topographic data required as a basis for the preliminary Layout, in paragraph 2 of this Subdivision shall include existing conditions as follows except when otherwise specified by the Planning Board.
 - a. Boundary lines; bearing and distances.
 - b. Basements: locations, width and purposes.
 - c. Streets ion and adjacent to the tract: name and right-of-way width and location; type, width and elevation of surfacing; any legally established center line elevations; walks, curbs, gutters, culverts, etc.
 - d. Utilities and adjacent to the tract: location, size and invert elevation of sanitary, storm and combined sewers; location and size of water main; location of gas lines, fire hydrants, electric and telephone poles, street light; if water mains and sewers are not on or adjacent to that, indicates the direction and distance to, and size of nearest ones, showing invert elevation of sewers.
 - e. Ground elevation on the tract, based on a datum plane approved by the Village Engineer; for land that slopes less than approximately two (2%) percent show spot elevations at all breaks in grade, along all drainage channels or swales and at selected points not more than one hundred (100) feet apart in all directions; for land that slopes more than five (5) feet if ground slope is regulate and such information is sufficient for planning purposes, or show contours with an interval or no more than two (2) feet if necessary because of irregular land or need for more detailed data for preparing plans and construction drawings.
 - f. Subsurface conditions on the trace, if required by the Planning Board: location and results of tests made to ascertain subsurface soil, rock and ground water conditions; depth to ground water unless tests pits are dry at a depth of five (5) feet; location and results of soil percolation tests if individual sewage disposal systems are proposed.
 - g. Other conditions on the tract; watercourses, marshes, rocky outcrop, wooded area, isolated preservable trees one foot or more in diameter, houses, barns, shacks and other significant features.
 - h. Other conditions on adjacent land; approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location buildings, railroads, power lines, towers and other nearby nonresidential land uses or adverse influence; owners of adjacent unplatted land; for adjacent platted land refer to subdivision plat by name, recordation date, number and show approximate percent built-up, typical lot size and dwelling type.
 - i. Photographs, if required by the Planning Board, camera location, direction of views and key numbers.
 - j. Zoning on and adjacent to the tract.
 - k. Proposed public improvements; highways or other major improvements planned by public authorities for future construction on or near the tract.

- l. Key plan showing location of the tract.
 - m. Title and certificates; present tract designation according to official records in Office of County Clerk; title under which proposed subdivision is to be recorded, with names and address of owners, notation stating acreage, scale, north arrow, datum, benchmarks, certification of registered civil engineer or surveyor, date of survey.
2. Preliminary layout shall be at a scale of two hundred (200) feet to one (1) inch or larger, it shall show all existing conditions required above in paragraph 1 of this Subdivision, topographic data and shall show all proposals including the following:
 - a. Streets: names, right-of-way and roadway widths; approximate grades and gradients; similar data for alleys, if any.
 - b. Other rights-of-way easements; location, width and purpose.
 - c. Location of utilities, if not shown on other exhibits.
 - d. Lot lines, lot numbers and block numbers.
 - e. Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.
 - f. Sites, if any, for multi-family dwellings, shopping centers, churches, industry or other non-public uses exclusive of single-family dwellings.
 - g. Minimum building setback lines.
 - h. Site data, including number of residential lots, typical lot size, and acres in parks, etc.
 - i. Title, scale, north arrow and date.
 3. Other preliminary plans: When required by the Planning Board, the preliminary layout shall be accompanied by profile showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision, typical cross sections of the proposed grading, roadway and sidewalk; and preliminary plan of proposed sanitary and storm water sewers with grades and sizes indicated. All elevations shall be based on a datum plane approved by the Village Engineer.
 4. Draft of protective covenants whereby the subdivider proposes to regulate land use in the subdivision and otherwise protect the proposed development.
- C. Plats and data for final approval:
1. Final plat shall be drawn in ink on tracing cloth on sheets twenty (20) inches wide by forty (40) inches long and shall be at a scale of one hundred (100) feet to one (1) inch or longer. Where necessary, the plat may be on several accompanied by an index sheet showing the entire subdivision. For large subdivisions, the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Planning Board. The final plat shall show the following:
 - a. Primary control points, approved by the Village Engineer, or descriptions and "tries" to such control points, to which all dimensions, angles, bearings and similar data on the plat shall be referred.
 - b. Track boundary lines right-of-way lines of street, easements and other rights-of-way, and property lines of residential lots and other sites; with accurate dimensions, bearings or deflection angles, and radii, acrs, and central angles of all curves.

- c. Name and right-of-way width of each street or other right-of-way.
 - d. Location to identify each lot of site.
 - e. Location, dimensions and purpose of any easements.
 - f. Purpose for which sites, other than residential lots, are dedicated or reserved.
 - g. Minimum building setbacks lines on all lots and other sites.
 - h. Location and description of monuments.
 - i. Names of record owners of adjoining unplatted land.
 - j. Reference to recorded subdivision plats of adjoining platted land by record name, date and number.
 - k. Certification by surveyor or engineer certifying to accuracy of survey and plat.
 - l. Certification of title showing that applicant is the owner.
 - m. Statement by owner dedicating streets, right-of-way and any sites for public use.
 - n. Title, scale, north arrow and date.
2. Cross sections and profiles of streets showing grades approved by the Village Engineer. The profiles shall be drawn to standard scales and elevations and shall be based on a datum plane approved by the Village Engineer.
 3. A certificate by the Village Engineer certifying that the subdivider has complied with one of the following alternatives:
 - a. All improvements have been installed in accord with the requirements of these regulations and with the action of the Planning Board giving conditional approval of the preliminary layout, or
 - b. A bond certified check has been posted, which is available to the municipality and in sufficient amount to assure such completion of all required improvements.
 4. Protective covenants in form for recording.
 5. Other data. Such other certificates, affidavits, endorsements or deductions as may be required by the Planning Board in the enforcement of these regulations.

§31.6 Variance

- A. Hardship: Where the Planning Board finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the Official Map, the Zoning Ordinance, Chapter 30 of this Code, the Master Plan, or these regulations.
- B. Large scale development: The standards and requirements of these regulations may be modifying by the Planning Board in the case of a plan and program for a new town, a complete community, of a neighborhood unit, which in the judgment of the Planning Board provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated and which also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan.
- C. Conditions: In granting variances and modifications, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements so varied or modified.

§31.7 Final Approval by Board of Trustees

The approval by the Gowanda Planning Board of a final subdivision plan or plats shall be further subject to the approval of the Village Board of Trustees.

§31.10 Penalties

A violation of the provisions of this Chapter shall be offense and any person violating any of the provisions hereof shall, upon conviction, be punished by a fine not exceeding two hundred fifty dollars (\$250) for each offense.

Cross-Reference:

Building Code Enforcement	Chapter 26
Housing Code	Chapter 27
Swimming Pools	Chapter 35
Unsafe Buildings	Chapter 33
Zoning	Chapter 30

**ARTICLE II
SITE PLAN REVIEW PROCEDURES**

§31.20 Definitions

For the purpose of this Article, which shall be known as “Village of Gowanda Site Plan Procedures and Standards,” certain words herein are defined as follows:

CEO – The Village of Gowanda Code Enforcement Officer

Planning Board – The Village of Gowanda Planning Board

Site Plan – A rendering, drawing or sketch prepared to specifications and containing necessary elements, as set forth in this section, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan. Plats showing lots, blocks or sites which are subject to review pursuant to authority provided for the review of subdivisions under §7-728 of the Village Law shall continue to be subject to such review and shall not be subject to review as site plans under this section.

Village Board – The Gowanda Village Board

§31.21 Intent

It is the purpose and intent of this chapter to protect and promote the health, safety and general welfare of the residents of the Village of Gowanda by preserving the historic character and appearance of the Village of Gowanda, the attractiveness of whose residential and business areas is the economic mainstay of the community. The following site plan provisions are intended to secure compliance with the requirements and standards set forth in this chapter and with accepted professional design practice for such site improvements as grading, drainage, means of access, signs, architectural features, screens, sidewalks, curbs, parking, landscaping, fences, driveways, location and dimension of buildings. It further is to assure that the development and re-development of land within the village is appropriate and compatible with the development of surrounding land and consistent with the approved Master Plan. It is not intended to prohibit development that is otherwise permitted under the applicable zoning regulations; rather it is intended to improve the function, design, aesthetics and safety of that development and to provide a context for the diverse yet harmonious architectural and landscape design.

§31.22 Authorization and Approval

The power to recommend to the Village Board approval, approval with suggested modifications, or suggested disapproval of Site Plans as required by this Article is vested in the Planning Board. The final approval or disapproval shall rest with the Village Board.

§31.23 Applicability

- A. General – Applications for Site Plan Review are required for the following:
1. Changes to a previously approved Site Plan.
 2. Re-zoning applications.
 3. Request for Subdivision approval.
 4. Request for Planned Unit Development zoning.
 5. Change to a historical building or changes to a site or sites within a historic district.
 6. Referral by the CEO.
 7. Demolition of existing structures greater than one thousand (1,000) square feet.
 8. Exterior alterations in present B-1, B-2, I-1, R-3, Planned Unit Development and MF Districts.
 9. New or expanded parking areas.
 10. New Construction and new use in B-1, B-2, I-1, R-3, Planned Unit Development and MF Districts.
 11. Establishment of New Zoning Districts within the Village.
 12. Any Special Use Permit Application.

B. Exceptions:

1. Construction or expansion of a single one-family or two-family dwelling and ordinary accessory structures and related land use activities.
2. Landscaping or grading which is not intended to be used in connection with a land use reviewable under provisions of this Chapter.
3. Ordinary repair or maintenance or interior alterations to existing structures or uses.
4. Changes previously approved Site Plan that are permitted within the existing Village of Gowanda Municipal Code.

§31.24 Site Plan Review Process

A. The Site Plan review process may be initiated by:

1. Receipt of application for a building permit by a Village representative including but not limited to, a CEO or Village representative.
2. Formal or informal communication to a Village representative by a Village Clerk, CEO or Village Board Member.

B. The request is referred to the Planning Board as applicable per §31.14, Applicability.

C. Concept Plan: The purpose of the Concept Plan submittal is to encourage the applicant for a use to consult early and informally with the CEO and the Planning Board pursuant to Section 31.23, herein.

D. Concept Plan Requirements:

1. If prepared, the Applicant shall submit three (3) copies of the Concept Plan to the CEO.
2. The CEO and the Planning Board shall provide written comments on the Concept Plan of a proposed use and in the course of its review may consult with other interested public agencies, as needed.

E. Preliminary Site Plan Application: Application for preliminary site plan approval shall be made in writing and three (3) copies shall be submitted to the CEO. The CEO shall notify the Village Clerk of receipt of the application and shall refer the application as applicable per §31.14, applicability along with his comments to the Planning Board for its review and action. The date received by the CEO shall become applicant's submission date.

F. Preliminary Site Plan Requirements: The preliminary Site Plan application shall include, but is not limited to, the information listed below. *They may not waive any of the specific requirements of Village of Gowanda Municipal Code Chapter 30 Zoning.*

1. An area map showing that portion of the applicant's property under consideration for development, any adjacent parcels owned by the applicant, and all streets, zoning districts, easements and adjacent buildings within a straight line 500 feet long in any direction from the applicant's property.
2. A preliminary Site Plan shall include the following information:
 - a. Title of drawing, including the name and address of the applicant.

- b. North arrow, scale and ate.
 - c. Boundaries of the project at a scale of not more than 20 feet to one inch.
 - d. Existing natural features such as watercourses, water body wetlands, wooded areas and individual large trees, showing features to be retained.
 - e. Existing and proposed contours at intervals of not more than ten feet.
 - f. Location of proposed land use and their areas in square feet or acres, the uses proposed and the height of each proposed structure.
 - g. Location of all existing or proposed site improvements including streets.
 - h. Description of sewage disposal and water systems and the location proposed for such facilities.
 - i. Provision for buffer area and other landscaping.
 - j. Delineation of residential areas, if proposed, indicating the general extent of each area, a description of the unit types proposed, and a calculation of residential density in dwelling units per gross acre for each such area.
 - k. Location of all parking and truck loading/unloading areas, showing access and ingress drives.
 - l. The location, design and size of all signs and lighting facilities.
 - m. The appropriate locations and dimensions of areas proposed for neighborhood parks or playgrounds or other permanent open space.
 - n. Building orientation, footprint and elevations.
 - o. The location and design of all energy distribution facilities, including electrical, gas, solar energy, wind energy, water energy and geothermal energy.
 - p. Grading and erosion control measures including the proposed location of sediment sink/settling pond and interceptor swales, etc.
 - q. Provision for Flood Zone consideration accompanied with a Flood Plan Permit.
 - r. Location and design for storm water management facilities.
 - s. A drainage report including supporting design data and copies of the engineering computations used to determine the design capacities and performance requirements of drainage facilities.
 - t. The line and dimensions of all property which is offered, or is to be offered, for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of property owners of the development.
 - u. Location and dimensions of existing and proposed easements.
 - v. Location of outdoor storage, if any, including dumpsters and compactor facilities.
 - w. An estimate project construction schedule.
3. Additional Information: The Code Enforcement Officer and the Planning Board, upon application referral, may require additional information which appears necessary for a complete assessment of the project.
- G. Review of Preliminary Site Plan: The CEO's and the Planning Board's review of the preliminary site plan shall include, but is not limited to, the following considerations:
- 1. The results of the analysis of the preliminary site plan by the Code Enforcement Officer to ensure compliance with all applicable local, state and federal rules and regulations.
 - 2. Adequacy and arrangement of vehicular traffic access and circulation, including emergency vehicle access.

3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
4. Location, arrangement, size and design of buildings, lighting and signs.
5. Relationship of the various uses to one another and their scale.
6. Adequacy, type and arrangement of trees, shrub and other landscaping constituting a visual and noise buffer between adjacent uses and adjoining lands.
7. Adequacy of storm water and sanitary waste disposal.
8. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding or erosion.
9. Compatibility of development with natural features of the site and with surrounding land uses.
10. Adequacy of flood proofing and flood prevention measure consistent with the Flood Damage Protection Chapter 34 of the Village of Gowanda Municipal Code.
11. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.
12. Adequacy of pedestrian access, circulation, convenience and safety, including compliance with the requirements for access by physically challenged which are incorporated in the American Disabilities Act.
13. Those requirements that apply that are found elsewhere in:
 - a. Chapter 30 Zoning;
 - b. Chapter 31, Article I, Subdivision Regulations and Article II, Site Plan Review Procedures;
 - c. Chapter 34 Flood Damage Protection;
 - d. Chapter 35 Swimming Pools;
 - e. Chapter 41 Parks and Recreation Areas;
 - f. Chapter 44 Streets and Public Places;
 - g. Chapter 45 Water Service;
 - h. Chapter 46 Sanitary Sewers;
 - i. Chapter 55 Fire Prevention;
 - j. Local Law #1-2002, Tree Local Law;
 - k. Local Law #1-2004, Chapter 84, Signs; and
 - l. Any other applicable Local Law that may be adopted in the future.

Note: In its review of a preliminary site plan, the Planning Board may consult with fire and police departments, other local and county officials and their staff and any designated private consultants, in addition to representatives of federal and state agencies including, but not limited to, the soil conservation service, the New York State Department of Transportation (NYSDOT) and the New York State Department of Environmental Conservation (NYSDEC).

- H. **Public Hearing:** The Planning Board may conduct a Public Hearing on the Site Plan if considered desirable by the majority of its members or if requested by the Village Board or Site Plan applicant.

§31.25 Planning Board Action

Within forty-five (45) calendar days of receipt by the Planning Board of the complete application for Site Plan approval, the Planning Board shall render its recommendation to the Village Board for approval, conditional approval or disapproval. This time may be extended to accommodate proper procedure for a public hearing if conducted by the Planning Board. This time period may also be extended by mutual consent of the applicant and the Planning Board. This time period may also be extended by mutual consent of the applicant and the Planning Board. The Planning Board shall document such consent in writing and the Planning Board may unilaterally extend the time period to require additional written documentation requested by the Planning Board related to any matter in §31.24(F) Review of Preliminary Site Plan.

The Village Board may unilaterally extend this time period by request for writings or further evidence on any matter considered in the application before accepting the recommendation of the Planning Board.

§31.26 Village Board Action

Within forty-five (45) calendar days of receipt of the written Code Enforcement Officer's and the Planning Board's written recommendations to the Site Plan, the Village Board shall:

- A. Render a decision of approval, conditional approval, or disapproval:
 1. Approval: Upon approval, the Village Board shall endorse its approval on a copy of the Site Plan and shall immediately file it and a written statement of approval with the Village Clerk. A copy of the written statement shall be mailed to the applicant.
 2. Conditional Approval: The Village Board may conditionally approve the Site Plan. Upon adequate demonstration by the applicant that all conditions have been met, the Village Board shall endorse its approval on a copy of the Site Plan and shall immediately file it along with a written statement with the Village Clerk. A copy of the written statement of approval shall be mailed to the applicant.
 3. Disapproval: Upon disapproval of the Site Plan, the decision of the Village Board shall, within two (2) working days be filed with the Village Clerk, and a copy thereof mailed to the applicant.
- B. Decision on site plans: The time within which the Village Board must render its decision may be extended by mutual consent of the applicant and such Board. A site plan shall not be considered received by the Village Board until it has received the recommendations of both the CEO and the Village Planning Board, the established site plan review fee, together with an application and three copies of a plan that conforms to the requirements of this section and any reasonable rules of procedure adopted by the Village Board. The decision of the Village Board shall immediately be filed in the office of the Village Clerk and a copy thereof mailed to the applicant.

Nothing herein shall preclude the holding of a public hearing by the Village Board on any site plan approval application. Written recommendations of both the CEO and the Village Planning Board or any Village official or office that the Village Board may reasonably provide it with advice related to the application, including the Village Engineer, the Village Attorney, the Village Flood Plain Administrator, the head of the Village's emergency services or fire departments, or information from any State or local Agency or Department which will be involved in any part of the proposed development. Further those written recommendations shall be filed in the office of the Village Clerk and a copy thereof mailed to the applicant.

- C. Notice to county planning agency: At least 10 days before any required public hearing, the Village Board shall mail notices thereof to the county planning agency, as required by §239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in Subdivision 1 of §239-m of the General Municipal Law. In the event that a public hearing is not required, the matter shall be referred to the county planning agency before final action is taken thereon, if required by §239-m of the General Municipal Law.
- D. Compliance with State Environmental Quality Review Act: The Village Board shall comply with the provisions of the Statement Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in 6 NYCRR §617. The good faith efforts of the Village Board to comply with the State Environmental Quality Act or its implementing regulations shall extend the time period during which the Village Board must render a decision under §31.26(B) of this Chapter.

§31.27 Fees

An application for Site Plan Review shall be accompanied by a fee assessed by the CEO.

§31.28 Reimbursable Costs

Cost incurred by the Planning Board, Village Board or the CEO for consultation fees or other extraordinary expense in connection with the review of a proposed Site Plan shall be charged to the Applicant.

§31.29 Appeals

When an applicant for a building permit or a certificate of occupancy for a special exception use questions the interpretation of the site plan requirements, he may appeal the decision to the Village of Gowanda Zoning Board of Appeals.

§31.30 Improvements

- A. No certificate of occupancy shall be issued by the CEO until all improvements shown on the Site Plan are installed, or a sufficient performance guarantee has been posed for improvements not yet completed.
- B. The CEO shall be responsible for the overall inspection of the site. The CEO may call the assistance of the Public Works Department and the Village Engineer and other as needed.
- C. The applicant shall provide final as-built survey(s) or map(s) of satisfactory to the Public Works Superintendent and CEO indicating locations of monuments and marking all underground utilities as actually installed. No performance bonds shall be released nor certificate of occupancy issued until such map is provided by the applicant.

§31.31 Time Restriction for Action on Final Site Plan

The duration of an approved Site Plan from the Village Board approval date shall be six months or such greater period not to exceed one year as may be specified in the approval by the Village Board. Site plan approval may be renewed by the Village Board for a six month period upon written application to the Village Board and copied to the CEO, such applicant submitted prior to the expiration of the site plan approval period.

§31.32 Failure to Comply

Failure to comply with any condition of the site plan approval shall constitute a violation of the zoning law subjecting the applicant to any successor in interest in the property for which site plan approval was granted to all penalties set forth in the Village of Gowanda Municipal Code. The Applicant, or any successor in interest in the property for which site plan approval was granted shall be required to appear before the Village Board for review of conditions of Site Plan approval within thirty (30) calendar days. The Village Board upon such review shall remove or amend the conditions of site plan approval.

§31.33 Effect on Existing Uses

This law does not apply to uses and structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law that has been discontinued for a period of one year or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered in existence provided the same has been substantially commenced as the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

**Appendix E
Sample Site Development Plan Review
Checklist**

Proposed Development:

Name _____

Applicant:

Name _____
Address _____

Telephone _____

Procedural Sequence:

Initial contact with enforcement officer

Pre-submission conference

Preliminary application

Fee paid: Amount \$ _____

Public hearing notice

Public hearing

Tentative action:

Approval _____

Approval with modifications _____

Disapproval _____

Resubmitted _____

Lapse date for final approval

Final application

Referral

Comments returned

Final Action:

Approval _____

Approval with modification _____

Conditions satisfied _____

Disapproval _____

Resubmitted _____

Building permit granted

Performance bond required

Amount \$ _____

Period _____

Improvements covered _____

Date: _____

Performance bond satisfied

Certificate of occupancy issued

**Sample Site Development Plan Review
Checklist (continued)**

Technical Considerations

Item Satisfied

North arrow, scale, date
Property boundary, dimensions and angles
Easements and deed restrictions
Names, locations and widths of adjacent streets

Land use, zoning, ownership and physical
improvement of adjacent properties
Conformity with comprehensive plan

Impact of environs:

Land use
Transportation
Community facilities and services
Aesthetics
Environmental, i.e., air, water, noise, etc.
Energy conservation
Historic preservation
Environmental impact statement

Existing, on-site physical improvements

Existing natural features:

Geologic features
Soil characteristics
Topography
Vegetation
Hydrologic features

Proposed developments:

Grading and drainage plan
Buildings and other structures
Improvements such as parking, storage
And recreation areas

Vehicular and pedestrian ways including
Ingress and egress

Utility lines and appurtenances
Outdoor lighting and public address systems
Outdoor signs
Landscaping plans
Architectural plans
Materials specifications
Construction schedule

VILLAGE OF GOWANDA

Application for Special Use
Under Chapter 30: Zoning

Variance

Special Use Permit

TO THE ZONING BOARD OF APPEALS:

I, _____, the owner of the property located at, _____, Tax map number, Sect. _____, Block _____, Lot _____, hereby petition the Zoning Board of Appeals of the Village of Gowanda to grant a Variance/Special Use Permit under Zoning Code Section(s) _____, to allow the following as described below or shown on the accompanying drawings.

Special permit uses are those uses having some special impact or unique form which require a case-by-case review of their location, design, configuration and impact to determine, against fixed standards, the desirability of permitting their establishment on any particular site. Please answer the following questions with as much detail as possible to assist the Zoning Board of Appeals with their review. Attach additional sheets as necessary.

1. What is the present zoning classification of the parcel?

2. What are the surrounding parcels used for (i.e., family, commercial, parkland)?

North _____ South _____
East _____ West _____

3. Describe the proposed use (include information as is pertinent to your application, about building size, hours of operation, number of employees, number of off-street parking spaces, area to be enclosed, etc.):

4. Provide evidence and information which demonstrates that the proposed use will not substantially impact on the nature and character of the surrounding neighborhood.

5. Explain how the proposed use will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.

6. Explain why your proposed use will not be more objectionable than would a use permitted by the Zoning Code. Specifically, will your proposed use create any nuisances by generating noise, odors/fumes, glare from lighting.

7. Demonstrate to the Board that the proposed use will be adequately served by storm drainage structures, water, sanitary sewers, off-street parking, access to city streets to handle projected traffic volumes, fire and police protection, schools and refuse disposal, as these services may be relevant to your project.

8. Explain how your proposal will avoid the loss, destruction or damage to any natural, scenic, architectural or historic feature of significant importance, if applicable, to your proposal.

9. Demonstrate by the submissions of drawings and narrative that your proposal complies with all zoning regulations which apply.

Date: _____

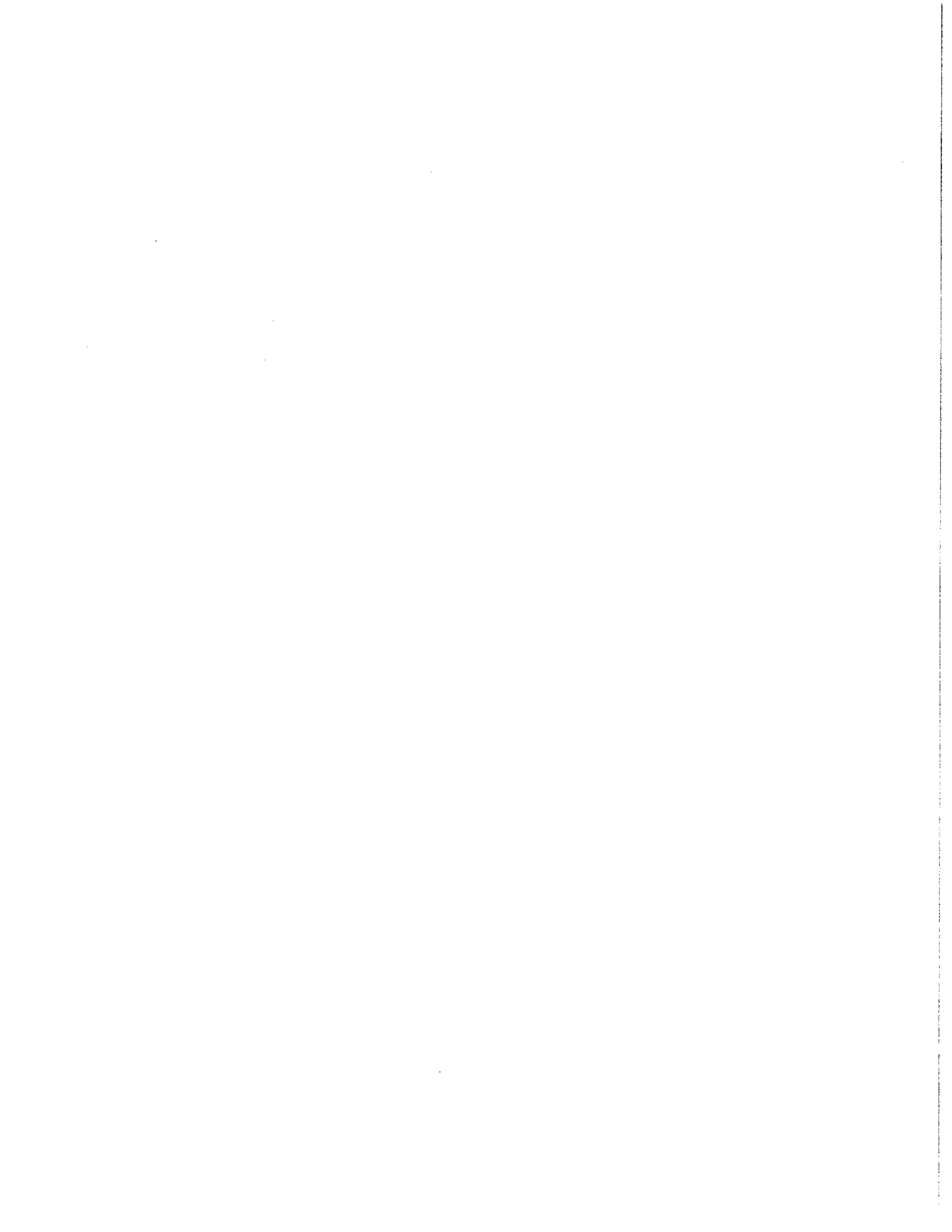
Signed: _____

Address: _____

City: _____

Zip Code: _____

Phone: _____



§31.34 Appeals Procedures

Any person, group of business aggrieved by any decision of the Planning Board, CEO, Village Board, or any Village Officer with respect to this local law may apply to the Village of Gowanda Zoning Board of Appeals for a review. Such proceedings shall be instituted within thirty (30) days after the filing of a decision on the office of the Village Clerk.

§31.35 Severability

The invalidity of any part, clause, section or provision of this local law shall not invalidate any other part, clause, section or provision thereof.

Cross-reference:

Chapter 1	General Provisions
Chapter 26	Uniform Code Enforcement
Chapter 27	Housing Code
Chapter 31	Article I - Subdivision Regulations
Chapter 31	Article II – Site Plan Review Procedures
Chapter 31-A	Landscape Requirements
Chapter 34	Flood Damage Protection
Chapter 35	Swimming Pools
Chapter 44	Streets and Public Places
Chapter 45	Water Service
Chapter 46	Sanitary Sewers
Chapter 60	Traffic and Vehicles
Chapter 84	Sign Local Law
Local Law	1-2002 Tree Local Law

All above references include all up to date and current changes

CHAPTER 31 –A

LANSCAPE REGULATIONS

§31-A.01 Purpose

- A. The purpose of this section is to establish and define the minimum landscape requirements of the Village, to enhance the appearance of Gowanda common areas and open space and to contribute to the overall impression of a neighborhood. Landscape elements help define a neighborhood while providing a sense of Village continuity. The entire community benefits from an enhanced visual experience and an improved quality of life, and through the protection of environmentally sensitive

areas. Standards and criteria for landscaping have been established to promote the following goals:

1. The landscaping requirements in conjunction with the Site Plan Review will further the goals, policies and strategies stated in the Village of Gowanda Comprehensive Plan (VGCP).
 2. The landscaping requirements will be used to minimize conflicts between potentially incompatible permitted land uses on adjoining lots or parcels.
 3. The landscaping requirements promote safe and compatible design.
 4. The landscaping requirements will be used to reduce the effects of wind and air turbulence, heat and noise, and the glare site lighting and traffic lights.
 5. The landscaping requirements promote water conservation, prevent soil erosion and to protect environmentally sensitive areas.
 6. The landscaping requirements help to ensure integration with storm water management features.
 7. The landscaping requirements help to integrate landscape and streetscape amenities.
- B. These standards represent minimum landscape requirements. They are intended to allow Developers/Owners to create a signature landscape design for their development while still satisfying Village requirements.

§31-A.02 Goals

- A. The developer/owner shall attempt to design a landscape that has year round appeal through consideration of seasonal color and texture of flowers, leaves, bark, fruit, hardscape and streetscape amenities.
- B. Designs shall make every attempt to incorporate the following design goals:
1. Create a pedestrian friendly environment.
 2. Soften architectural materials, including signs and fences.
 3. Enhance the surrounding streetscape/parkway environment.
 4. Provide shade and climate controls through the use of deciduous trees that will provide an overhead canopy when mature.
 5. Provide buffers between incompatible land uses or site areas.
 6. Provide screening of service structures and other non-essential site elements.
 7. Irrigate with non-potable water where not already required.
- C. Sustainability of natural resources through the use of water-efficient landscape and irrigation techniques and promotion of land stewardship and long-term resource protection through the proper selection of appropriate plant materials as well as proper maintenance is encouraged.

§31-A.03 Definitions

- A. "Berm" – An earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

- B. "Crown" – The upper portion of a tree or shrub from the lowest branch on the trunk of the tree.
- C. "Landscape Buffer" – A combination of physical space and vertical elements such as plants, berms, fences or walls, the purpose of which is to separate and screen incompatible land uses from each other.
- D. "Landscaped Open Area or Landscaped Area" – Any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and non-living landscape material (such as rocks, pebbles, sand, mulch, walls, fences or decorative paving materials). The area may also include beams, planters, lighting, street furnishings and ornamental features that are integrated with the vegetation.
- E. "Non-Permeable" – Any surface lacking the ability for air and water to pass through to the root zone of plants.
- F. "Ornamental Tree" (Understory Tree) – A deciduous or evergreen tree planted primarily for its ornamental value or for screening purposes, tends to be smaller at maturity than a shade tree.
- G. "Screen" – A method of reducing the impact of noise and unsightly visual intrusions with less offense or more harmonious elements, such as plants, berms, fences, walls or any appropriate combination thereof.
- H. "Tree" – A plant listed as a tree in the most current editions of any of the following:
 - 1. The Audubon Society's Field Guide to North American Trees or;
 - 2. The list of trees provided in this Village of Gowanda Tree Local Law Appendix C.
- I. "Shade Tree" (Canopy Tree; Overstory Tree) – Sometimes evergreen, usually deciduous tree planted for its high crown of foliage or overhead canopy, a large woody perennial having one or more self supporting stems and numerous branches reaching a mature height of at least 40 feet and a mature spread of at least 30 feet.
- J. "Shrub" – A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than 10 feet in height at maturity.
- K. "Visibility Triangle" – An imaginary triangle located within the curb lines of two intersecting curb lines at points thirty-five feet back from their intersection and the hypotenuse (or third side of the triangle).
- L. "dbh" – Diameter (of tree) in inches at breast height (4.5 feet).
- M. "Caliper" – Diameter of tree in inches at a height of 6 inches from the ground.
- N. "Hardscape" (or "Hardscaping") – Refers to the inanimate (i.e., non-living) elements of a landscape. This includes elements made from wood, even though wood was

once animated (in the form of trees). In particular, as the name implies, "hardscape" refers to **hard** elements such as those composed of metal (tree grates), concrete, brick or stone, addition to wood. Examples: a brick walkway, a stone wall, or a wooden fence

O. "Softscape" - Living plants, by contrast, constitute the "softscape."

P. "Village" - Shall mean the Village of Gowanda, New York.

§31-A.04 Applicability

A. These requirements apply to:

1. All Site Plan reviews
2. Additions of 25 percent or more to existing buildings and uses in all B-1, B-2, I-1, R-3, Planned Unit Developments and MF Districts.
3. New construction and expansion by 25 percent or more of all existing permanent non-residential uses in R-1 and R-2 districts.
4. Demolition of existing buildings and structures in all B-1, B-2, I-1, R-3, Planned Unit Development and MF Districts.
5. Demolition of existing permanent non-residential structures in R-1 and R-2 districts.

B. These landscape requirements may be interpreted with some flexibility in their application to specific projects as not all design criteria may be workable/ appropriate for each project. In some circumstances, the review authority may relax the application of one guideline in order to accomplish another, more important guideline. The overall objectives are to ensure that the intent and spirit of these guidelines are followed and to attain the best design within reason.

§31-A.05 Landscape Plan Submission and Approval Process

A. Drawing Submission Requirements: Depending on the nature of the proposed development, the Landscape Plan can be combined with the Site Plan or submitted as a standalone document. A Preliminary Landscape Plan may be submitted which, after review by the Village Code Enforcement Officer and the Village Plan Board, will be amended to become the Final Proposed Landscape Plan.

1. A Proposed Landscape Plan can be combined with the Site Plan when there is minimal environmental impact or a small scale development (less than 1,000 square feet).
2. A Landscape Plan as a standalone document is required when there is moderate to significant environmental impact and/or a moderate to large scale development greater than 1,000 square feet).
3. The Final approved Landscape Plan becomes part of the Site Plan documents submitted for review and approval by the Village Board along with the formal Building Permit request.

- B. The Landscape Plan document should conform to the Site Plan. The plans should have a scale of one inch equals 30 feet or larger and be on a standard drawing sheet of a size no smaller than 24 inches by 36 inches. A plan which cannot be drawn in its entirety on a 36 inch by 48 inch sheet must be drawn with appropriate match lines on two or more sheets. The document must include the following information:
1. Date, scale, north arrow, and the names, addresses and telephone numbers of both the property owner and the person preparing the plan.
 2. Complete description of landscaping and screening to be provided in or near off-street parking and loading areas, including information as to the amount (in square feet) of landscape area compared to gross site square feet. The Village/ State right-of-way shall be included as part of the gross site landscaping.
 3. Complete description of planting beds, sodded areas and proposed plant materials shown on the plan, including names (common and botanical name), locations, quantities, container sizes, caliper sizes, heights, spread and spacing.
 4. Location and description of existing vegetation to be retained or removed.
 5. Location and type of protection measures for the existing vegetation to be retained.
 6. Location of all existing natural features including top of bank/berm and watercourse features.
 7. Location and material of all hard surfaced areas (e.g., driveways, walkways, parking areas).
 8. Location, height and material of all proposed fences, screen walls and retaining walls.
 9. Location of storm water management landscape features.
 10. Location of above and below ground utilities (including lighting facilities).
 11. Location of standalone signage.
 12. Proposed grades, finished first floor elevations, existing grades along the property lines and elevations at the base of trees to remain.
 13. Cross-section drawing of berms and grading plan showing berm contours.
 14. Location and treatment of garbage collection facilities.
 15. Location of irrigation devices and layout to minimize amount of spray that will fall on sidewalks.
 16. Any other landscape element that contributes to site development.
- C. Certificate of Occupancy: A certificate of occupancy shall not be issued by the Village Code Enforcement Officer prior to the approval and complete installation of the approved final landscape and irrigation plans. However, for a variety of reasons, including seasonal considerations, it is not always possible to complete the landscape installation as quickly as desired or needed. In such cases, an extension of time may be granted and a temporary certificate of occupancy may be issued for variable periods from 15 to 45 days. A performance security deposit may be required in the amount of 120% of the unfinished portion of the landscaping. It may be in the form of either a cash deposit or an irrevocable letter of credit for one year, payable to the Village at any time or in part from time to time.

§31-A.06 General Landscape Plan Requirements

- A. The proposed landscaping should relate to the scale of the structures on the site and should be compatible with the location, character and scale of adjacent landscaping that complies with the provisions of this chapter.
- B. The landscaping should blend with the dominant existing or planned streetscape and character of the area.
- C. Curbing (edging) should be installed at the edges of all landscape areas adjacent to vehicle circulation and parking areas. Curbing may be brick, steel, concrete, masonry, or precast concrete.
- D. Landscaping should be provided along and against all buildings to anchor it to the surrounding environment and to soften the structure. In-ground landscaping should comprise the majority of the landscaping requirement. Raised planters are acceptable when designed to accentuate the architecture and/or enhance pedestrian ways.
- E. The site design for projects located at street corners should provide special landscape treatment at the street intersections to anchor the corner but not interfere with traffic safety sight areas.
- F. A landscape buffer should be provided to screen commercial uses from residential areas.
- G. All landscape areas should be separated from asphalt pavement with curbing to prevent water leakage to the pavement area.
- H. Landscape design should reflect a variety of deciduous and evergreen trees, shrubs, perennials and groundcovers. Plant materials should be selected for their structure, texture, color, ultimate growth characteristics, hardiness zone and sense of unity with their surroundings.
- I. Plant materials shall conform to the requirements described in the latest edition of American Standards for Nursery Stock, published by the American Association of Nurserymen.
- J. Tree spacing and location in the tree lawn (right-of-way) is defined in the Village Tree Local Law.

§31-A.07 Specific Landscape Plan Requirements

A. Parking Lot Landscaping Perimeter:

1. The perimeter strip shall be at least five (5) feet wide for sites larger than ten thousand (10,000) square feet or at least three (3) feet wide if the site is smaller than ten thousand (10,000) square feet.
2. The minimum requirements for perimeter landscaping shall be one (1) 3 inch caliper shade tree and eight shrubs for each thirty-five (35) linear feet of perimeter.
3. Required perimeter landscaping between adjacent parking lots does not preclude the need to provide vehicular access between lots.
4. One half the numbers of required shade trees may be satisfied on a two for one basis with ornamental and evergreen trees. Callary Pear or other pear cultivars are considered ornamental trees under these landscape guidelines.

B. Parking Lot Landscaping Interior Area:

1. The required percentage of interior parking lot landscaping shall be determined based on the following sliding scale:

Total Parking Area Interior	Planting Area
7,000 – 49,999 sq. ft.	5%
50,000 – 149,000 sq. ft.	8%
150,000 sq. ft. and up	10%

2. To calculate the total parking area and the subsequent percentage of required interior lot planting, total the following square footages: planting islands, curbed areas, corner lots, parking spaces and all interior driveways and aisle except those with no parking spaces located on either side.

C. Retention Basins

1. Retention basins shall be completely landscape.
2. Retentions basins shall be contoured to create a natural appearance with slopes not to exceed a 4:1 ratio.
3. Retentions basins shall be constructed in accordance with plans approved by the Village Code Enforcement Officer and the Village Planning Board.

D. Historic District Area Landscape Standards: Landscaping requirements in the designated Village Historic Districts shall comply with present and future guidelines specifically for these districts. Where Historic District guidelines do not exist then these Village landscape guidelines shall apply.

E. Landscape maintenance during construction: Existing plant material damaged during construction or demolition shall be replaced with comparable species size prior to final inspection or issuance of a Certificate of Occupancy.

F. Plant material specifications:

1. All plant material shall be free of disease and insects at the time of planting and conform to the Standard of Nursery Stock of the American Association of Nurserymen ANZIZ60.1
2. Minimum plant material planting size:
 - a. Evergreen trees shall be a minimum of six (6) feet in height.
 - b. Narrow evergreens shall be a minimum of four (4) feet in height.
 - c. Ornamental trees shall be a minimum of ten (10) feet in height or 2" caliper.
 - d. Large deciduous shrubs shall be a minimum of four (4) feet in height.
 - e. Deciduous canopy trees shall be a minimum of twelve (12) feet in height or 2 ½" caliper.
 - f. Small evergreen or deciduous ornamental shrubs shall be a minimum of 18" spread.
3. Trees not permitted:
 - a. Box Elder (*acer negundo*)
 - b. Silver Maple (*acer saccharinum*)
 - c. Willow (*salix*) except species that grow to less than eight (8) feet at maturity.
 - d. Poplars aspen (*populus*) all species.
 - e. Elms (*ulmus Americana*) note: *parvifolia* and disease resistant hybrids are acceptable.
 - f. Sumac (*rhus*) including *aromatic*, *copallina* and *glabra*.
 - g. Tree of Heaven (*ailanthus altissima*).

G. Landscape maintenance:

1. Landscaping shall be maintained at the level shown on the original approved landscape plan.
2. The landscaped area shall be maintained in a debris and weed free manner.
3. Amenities shown on the approved landscape plan shall be maintained in good repair.

H. Installation of landscaping:

1. New trees should be planted so that they are separated from turf areas by three to five feet. This is to help prevent surface rooting, crown-rot and "girdling" of the tree trunk by maintenance equipment.
2. The spacing of trees and shrubs should be appropriate for the species used. The plant materials should be spaced so that they do not interfere with adequate lighting of the premises or restrict access to emergency apparatus. Proper spacing should also ensure unobstructed access to vehicles and pedestrians and provide clear vision of intersections. Refer to Village Tree Local Law for specifics.

- I. Setbacks: All setbacks shall be as required in the Chapter 30 Zoning of the Village of Gowanda Municipal Code and associated chapters.
- J. Irrigation Runoff and Overspray: Landscape and irrigation systems shall be designed to avoid runoff, low head drainage, overspray and other similar conditions where water flows or drifts into adjacent property, non-irrigated areas, walks, roadways or structures.

31-A.08 Streetscape Hardware Standards

The following has been approved by the New York State Historic Preservation Office (SHPO) for use in the Village of Gowanda:

- A. Lighting: by HADCO
 - 1. Single-head fixture, pole, base, photocell, (2) GFCI receptacles, banner arms and flag holder as manufactured by HADCO Cat. #
 - a. P9500-I6 – 16"-0", 5" diameter, straight flat fluted pole allow 6005-T6 with black finish.
 - b. CA0499 Luminaire black, polyacryl Type V globe, full top w/h.s.s. reflector, photo control-twist lock receptacle, 250W MH 120 volt, pulse start.
 - c. CA0499C – slip over Luminaire base.
 - d. R53TANE1ATRG250HE pulse start fixture and lamp with (2) internal GFCI receptacles in POD.
 - e. Two (2) BA51A24BA banner arms.
 - f. One (1) FHB511A flag holder.
 - 2. Double-head fixture, pole, base, photocell (2) GFCI receptacles, banner arms and flag holder as manufactured by HADCO Cat. #
 - a. P9500-16 – 16"-0", 5" diameter, straight flat fluted pole with black finish.
 - b. CA0499 Luminaire black, polyacryl Type V globe, full top w/h.s.s. reflector, photo control-twist lock receptacle, 250W MH 120 volt, pulse start with SF Finial.
 - c. CA0499C – slip over base, black.
 - d. Two (2) R53TANE1ATRG250HE pulse start fixture and lamps with (2) internal GFCI receptacles in POD.
 - e. Two (2) BA51A24BA banner arms.
 - f. One (1) FHB511A flag holder.
 - g. PTH2520-A twin arm bracket black.
- B. Benches: Keystone Ridge Designs Lamplighter Series I26 Bench w/back and cast end arms in Black Polyester Powder coating finish in steel or equivalent manufacture.
- C. Litter Receptacles: Keystone Ridge Designs Midtown MT3D-38E Receptacle 38 gal with door and elevated lid in Black Polyester Powder coating finish on steel or equivalent manufacture.
- D. Planters: Keystone Ridge Designs Midtown MT4 with elevated feet and heavy duty poly liner both 22 gal and 32 gal in Black Polyester Powder coating finish on steel or equivalent manufacture.
- E. Bollards: Keystone Ridge Designs Grove GV 4 inch or 6 inch removable or permanent plan or with 1 or 2 chain loops in Black Polyester Powder coating finish on steel or equivalent manufacture.

- F. Bike Racks: Keystone Ridge Designs Grove GV_R straight removable 4 inch bollard, plain, one loop designs in Black Polyester Powder coating finish on steel or equivalent manufacture.
- G. Banners: PROJECT *graphics* 24" by 48" Sunbrella material with 4" pockets Top and Bottom with Grommets or equivalent manufacture.
- H. Water Fountains: Halsey Taylor Model 4881 FR (36") Freeze-Resistant Pedestal Fountain Forest Green Enamel finish or equivalent manufacture.
- I. Street Signs: Lakeshore Industries Palladian Cast Aluminum 2 sided 26" by 7" Street Signs with reflective white letters on black background baked on enamel finish, on 2 ½" galvanized pipe painted black and aluminum alloy 30" fluted base or equivalent manufacture.

§31-A.09 Time Restriction for Action on Final Site Plan Landscaping

The duration of an approved site plan landscaping from the Village Board approval date shall be six months or such greater period not to exceed one year as maybe specified in the approval by the Village Board. Site plan approval may be renewed by the Village Board for a six month period upon written application to the Village Board and copied to the Village Code Enforcement Officer, such application submitted prior to the expiration of the site plan approval period.

- A. Installation of plant materials:
 - 1. Installation of plant material shall occur prior to issuance of a Certificate of Occupancy.
 - 2. If at the time of a request for a Certificate of Occupancy, the required planting areas are not complete and it can be determined that:
 - a. Approval plant materials are not available;
 - b. Completion of the planting areas would jeopardize the health of the plant materials; or
 - c. Weather conditions prohibit completion of the planting areas, then the installation of plant materials may be deferred by the Code Enforcement Officer. The landowner shall submit a copy of a signed contract for installation of the required planting areas and may be required to post a surety equal in the amount of 120% of the unfinished portion of the landscaping. In no instance shall the surety be for a period greater than one hundred and eighty (180) days. The Code Enforcement Officer may issue a Temporary Certificate of Occupancy but shall not issue a Certificate of Occupancy until the planting areas have been completed and approved.

§31-A.10 Maintenance

The following standards shall be maintained for the landscaping:

- A. Landscaped areas shall be maintained by the owner/leser of the property. Maintenance shall include pruning, trimming, watering, removal and replacement of dead plant material or other required improvements.
- B. The landscaping shall be maintained free of debris in a weed free manner.
- C. The landscaping shall be maintained at the level shown on the original approved landscape plan.
- D. Amenities including but not limited to: picnic tables, lighting, sidewalks and other common area amenities shall be maintained in good repair; and
- E. Common area buffers such as fences and hedges shall be maintained by the owner/leser of the common area.

§31-A.11 Failure to Comply

Failure to comply with any condition of the site plan approval shall constitute a violation of the zoning law subjecting the applicant or any successor in interest in the property for which site plan approval was granted to all penalties set forth in the Village of Gowanda Municipal Code. The applicant, or any successor in interest in the property for which site plan approval was granted shall be required to appear before the Village Board for review of conditions of site plan approval within 30 calendar days. The Village Board, upon such review, may remove or amend the conditions of site plan approval.

§31-A.12 Effect on Existing Uses

This law does not apply to uses and structures which are lawfully in existence as of the date this local law becomes effective. Any use which would otherwise be subject to this law that has been discontinued for a period of one year or more shall be subject to review pursuant to the terms of this law before such use is resumed. Any use or structure shall be considered in existence provided the same has been substantially commenced as of the effective date of this local law and fully constructed and completed within one year from the effective date of this local law.

§31.A.13 Appeal Procedures

Any person, group or business aggrieved by any decision of the Planning Board, Code Enforcement Officer, Village Board or any Village Officer with respect to this local law may apply to the Village of Gowanda Zoning Board of Appeals for a review. Such proceedings shall be instituted within thirty (30) days after the filing of a decision in the office of the Village Clerk.

§31-A.14 Severability

The validity of any part, clause, and section of provision of this local law shall not invalidate any other part, clause, section or provision thereof.

Cross-references:

Chapter 1	General Provisions
Chapter 26	Uniform Code Enforcement
Chapter 27	Housing Code
Chapter 31	Subdivision Regulations
Chapter 34	Flood Damage Protection
Chapter 35	Swimming Pools
Chapter 44	Streets and Public Places
Chapter 45	Water Service
Chapter 46	Sanitary Sewers
Chapter 60	Traffic and Vehicles
Chapter 84	Sign Local Law
Local Law 1-2002	Tree Local Law

All above references include all up to date and current changes.

CHAPTER 33

UNSAFE BUILDINGS

§33.1 Unsafe Buildings Defined

All buildings or structures which have any or all of the following defects shall be deemed "unsafe buildings."

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- B. Those which, exclusive of the foundation, show thirty-three percent (33%) or more, of damage or deterioration of the supporting member(s) or fifty percent (50%) of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Village of Gowanda.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of escape.
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this Village.

- J. Those buildings existing in violation of any provision of Chapter 30 entitled "Zoning" and any other provisions of this Municipal Code.
- K. Any building or structure which remains vacant and unattended continuously for a period of five (5) years.

§33.2 Standards for Repair, Vacation or Demolition

The following standards shall be followed in substance by the Building Inspector and the Board of Trustees in ordering repair, vacation or demolition:

- A. If the unsafe building can reasonably be repaired so that it will no longer exist in violation of the terms of this law it shall be ordered repaired.
- B. If the unsafe building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants it shall be ordered to be vacated.
- C. In any case where an unsafe building is fifty percent (50%) damaged or decayed, or deteriorated from its original value or structure, it shall be demolished and, in all cases, where a building cannot be repaired so that it will no longer exist in violation of the terms of this law it shall be demolished. In all cases where an unsafe building is a fire hazard existing or erected in violation of the terms of this Chapter or any other provisions of this Municipal Code or statute of the State of New York, it shall be demolished.

§33.3 Unsafe Buildings, Nuisances

All unsafe buildings within the terms of §33.1 of this Chapter are hereby declared to be public nuisances and shall be repaired, vacated or demolished as hereinbefore and hereinafter provided.

§33.4 Duties of Building Inspector

The Building Inspector shall:

- A. Inspect any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this Chapter.
- B. Inspect any building, wall or structure reported (as hereinafter provided for) by the fire or police departments of this Village as probably existing in violation of the terms of this Chapter.

- C. Notify personally or in writing the owner or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by records of the Assessor or in the office of the County Clerk, of any building found by him to be an unsafe building within the standards set forth in §33.1 of this Chapter.
 - 1. The owner must vacate, or repair, or demolish said building in accordance with the terms of the notice and this Chapter.
 - 2. The occupant or lessee must vacate said building or may have it repaired in accordance with the notice and remain in possession.
 - 3. Any mortgagee, agent or other persons having an interest in said building may at his own risk repair, vacate or demolish said building or have such work or act done; provided, that any person notified under this Subdivision to repair, vacate, or demolish any building shall be given such reasonable time, not exceeding thirty (30) days, as may be necessary to do, or have done, the work or act required by the notice provided for herein.

- D. Set forth in the notice provided for in Subdivision C hereof, a description of the building, or structure deemed unsafe, a statement of the particulars which make the building or structure an unsafe building and an order requiring the same to be put in such conditions as to comply with the terms of this Chapter within such length of time, not exceeding thirty (30) days, as is reasonable.

- E. Report to the Board of Trustees any non-compliance with the "notice" provided for in Subdivision C and D hereof.

- F. Appear at all hearings conducted by the Board of Trustees and testify as to the condition of unsafe buildings.

- G. Place a notice on all unsafe buildings reading as follows: "This building has been found to be an unsafe building by this Building Inspector. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having vested or contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of any building found by me to be an unsafe building within the standards set forth in §33.1 of this Chapter. It is unlawful to remove this notice until such notice is complied with."

§33.5 Duties of Board of Trustees

The Board of Trustees shall:

- A. Upon receipt of a report of the Building Inspector as provided for in Subdivision E of §33.4 hereof, give written notice to the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or someone of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of any building found by him to be an unsafe building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the Building Inspector notice provided for herein in Subdivision D of §33.4.
- B. Hold a hearing and hear such testimony as the Building Inspector or the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk shall offer relative to the unsafe building.
- C. Make written findings of fact from the testimony offered pursuant to Subdivision B as to whether or not the building in question is an unsafe building within the terms of §33.1 hereof.
- D. Issue an order based upon findings of fact made pursuant to Subdivision C commanding the owner, or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk, to repair, vacate or demolish any building found to be an unsafe building within the terms of this Chapter and provided that any person so notified, except the owners, shall have the privilege of either vacating or repair said unsafe building but having an interest in said building may demolish said unsafe building at his own risk to prevent the acquiring of a lien against the land upon which the said unsafe building stands by the Village as provided in Subdivision E hereof.
- E. If such person fails to comply with the order provided for in Subdivision D hereof, within ten (10) days, the Board of Trustees shall cause such building or structure to be repaired, vacated or demolished as the facts may warrant, under the standards hereinbefore provided for in §33.2 of this Chapter and shall with the assistance of the Village Attorney cause the costs of such repair, vacation, or demolition to be charged against the land on which the building existed as a municipal lien, or cause such costs to be added to the tax rolls as an assessment

or to be levied as a special tax against the land upon which the building stands or did stand, or to be recovered in a suit at law against the owner; provided that in cases where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of this Village, the Building Inspector shall notify the Village Attorney to take legal action to force the owner to make all necessary repairs or demolish the building.

- F. Report to the Village Attorney the names of all persons not complying with the order provided for in Subdivision D of §33.5 hereof.

§33.6 Violation and Penalties

- A. Violation of any of the provisions of this Chapter is hereby declared to be a violation pursuant to the Penal Law.
- B. For every violation of any provision of this Chapter, the person violating the same shall be subject to a fine of not more than one hundred dollars (\$100.00) or imprisonment of not more than fifteen (15) days as provided in the Penal Law.

§33.7 Emergency Cases

In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless an unsafe building as defined herein is immediately repaired, vacated or demolished, the Building Inspector shall report such facts to the Board of Trustees and the Board of Trustees shall cause the immediate repair, vacation or demolition of such unsafe building. The costs of such emergency repair, vacation or demolition of such unsafe building shall be collected in the same manner as provided in Subdivision E of §33.5.

§33.8 Where Owner Absent from the Village

In cases, except emergency cases, where the owner, occupant or lessee is absent from the Village, all notices or orders provided for herein shall be sent by registered mail to the party in interest as described in Subdivision C of §33.4 to the last known address of such party in interest, and a copy of such notice shall be posted in a conspicuous place on the unsafe building to which it relates. Such mailing and posting shall be deemed adequate service.

§33.9 Administrative Liability

No officer, agent or employee of the Village of Gowanda shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Chapter. Any

suit brought against any officer, agent or employee of the Village of Gowanda as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the Village Attorney until the final determination of the proceeding therein.

§33.10 Duties of Firemen

Any volunteer firemen of the Village Fire Department may make a report in writing to the Building Inspector of any building or structures which are, may be, or suspected to be unsafe buildings within the terms of this Chapter.

§33.11 Duties of Police Department

All employees of the Police Department or any other law enforcement official shall make a report in writing to the Building Inspector of any buildings or structures which are or may be deemed to be unsafe buildings within the terms of this Chapter. Such reports must be delivered to the Building Inspector within twenty-four (24) hours of the discovery of such building.

Cross-references:

Building Code Enforcement	Chapter 26
Fire Prevention	Chapter 55
Housing Code	Chapter 27
Subdivision Regulations	Chapter 31
Zoning	Chapter 30

References:

Constitutional due process.

“The right to be heard . . . must include a clear and complete notice of the violations charged, and an opportunity to contest, defend against and rebut by affirmative showing the allegations made. (See Matter of Ryan v. Hofstra Univ., 67 Misc 2d 651; Matter of Janks v. City of Syracuse, 47 Misc 2d 718.)”
Moses v. City Council of Long Beach, 71 Misc 2d 925.

Constitutionality of this Chapter cannot be raised in an article 78 proceeding.

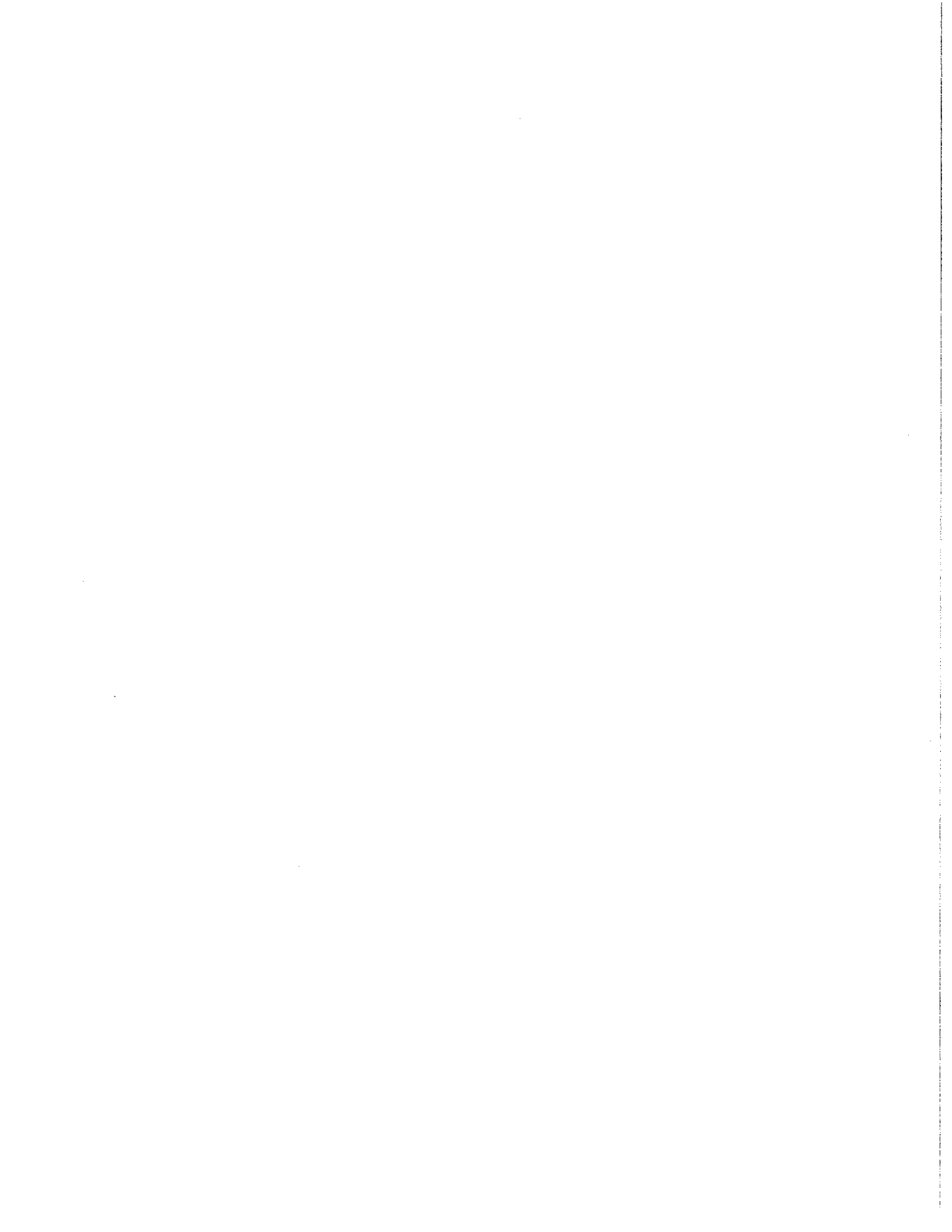
Matter of Janks v. City of Syracuse, 47 Misc 2d 718.

Inspections by fire department. Vil L §10-1020.

Order directing demolition of securing building w/ 24 hrs. violates due process of law
In that owner is not being given adequate notice and reasonable opportunity to be heard; and is unconstitutional. Matter of City of New York v. Unsafe Bldg & Structure located at 344 East 110th St., 77 Misc 2d 562.

Search warrant.

A conviction of permitting unsafe building conditions will not be upheld where evidence was obtained by unlawful search. A nonresident owner has the right to restrict entrance to premises, unless a search warrant is obtained. *People v. Rosenthal*, 59 Misc 2d 565. See also annotations p. 26.9.



CHAPTER 35

SWIMMING POOLS

§35.1 Purpose

- A. In pursuance of the authority conferred by the Village Law in the State of New York and in order to promote the health, safety and general welfare of the inhabitants to the Village this Chapter is hereby enacted.
- B. All construction and operation referred to in this Chapter must be in accordance with federal, state and local laws and codes. All sanitary conditions must comply with the rules of the State and County Boards of Health.

§35.2 Definitions and Clarification

- A. When used in this Chapter, certain words and terms shall have the following meanings:
 - 1. "Swimming pool" shall mean all private or semi-private swimming, bathing, wading pools, ponds or tanks above or below the ground of permanent or temporary nature, which have a depth of more than one hundred (100) square feet and which are excavated, erected, constructed or created by damming of a stream, whether out of doors or inside a structure or building.
 - 2. "In-ground swimming pool" shall mean all swimming pools having their entire water surface below the level of the surrounding ground.
 - 3. "Above-ground swimming pool" shall mean all swimming pools having all or any section of their exterior wall above the surrounding ground level.
 - 4. "Permanent construction" shall mean the installation of an above-or below-ground swimming pool which requires more than one (1) foot excavation for any part of the pool, and/or constructed partly encircled by deck or platform, any part of which cannot be dismantled for storage.
 - 5. "Temporary construction" shall mean the installation of an above-ground swimming pool which requires less than one (1) foot excavation of any part of the pool, with no platform encircling or partly encircling the pool other than an entrance platform four by four (4 x 4) feet maximum size, all of which can be dismantled and stored.
- B. A swimming pool shall be deemed to be a structure under Chapter 30 entitled "Zoning" of this Municipal Code and where applicable all work must be done in accordance with the New York State Building Construction Code.
- C. A swimming pool may be permitted only as an accessory structure to a principal building used for residential purposes. Said pool shall be for the exclusive use of the occupants of the principal building and their guests.

- D. A swimming pool may be permitted when said use is not as an accessory structure to the principal building only upon application to the Board of Appeals in accordance with this Chapter. Pools used normally by the public, such as clubs, and similar organizations must comply with the New York State Department of Health regulations.
- E. The building line of the pool shall be considered to be its inside wall.

§35.3 Permits

- A. Building permit required: Before any swimming pool is moved, placed, erected, assembled or excavated upon a lot or created by damming a stream, a building permit shall be required.
- B. Additions and alterations: A building permit shall be required for any enlargement of an existing pool, for a dressing shelter, a pump house, a filter house, an enclosure for the pool or any other structure erected in conjunction with the swimming pool. Such structures shall conform to all provisions of the New York State Building Construction Code and the Municipal Code and all other rules and regulations of the Village and shall not unduly interfere with the use or enjoyment of the adjacent property.
- C. Application: Each application for a building permit to erect, construct, dam a stream or excavate a swimming pool or to enlarge an existing pool or to build an ancillary structure must be accompanied by a building permit fee and by plans in sufficient detail to show the following:
 - 1. A plot plan of the property on which the swimming pool is to be constructed or placed showing the location of the swimming pool in reference to the side lines, rear lines, grades, basement and other structures on the property and existing electrical service lines and electrical lines.
 - 2. The pool dimensions and depths.
 - 3. The location and dimensions of the fence, and any structures or appurtenances built or that are to be built in conjunction with the swimming pool.
 - 4. The estimated cost of the proposed swimming pool.
 - 5. The location and type of waste disposal and drainage system of the property.
 - 6. The location and source of water supply.
 - 7. The location, size and description of all proposed electrical connections, lighting (both above and below the ground) and any pool-heating devices.
 - 8. These plans, along with structural calculations and details, must be prepared and signed by either the owner of the property or a licensed professional engineer, or a registered architect, or a recognized pool contractor, who is an accredited member of the National Swimming Pool Institute.

§35.4 Location

The location of a permanent or temporary swimming pool on the property must:

- A. Not be placed in the front yard.
- B. Be at least fifteen (15) feet from any side yard line and rear yard line.
- C. Be at least fifteen (15) feet from any house basement.
- D. Be at least twenty (20) feet from any active well, septic tank, leach bed, etc. unless conditions warrant a lessening or increasing of this distance.
- E. Not endanger the health and/or safety of its user and does not unduly interfere with the use and enjoyment of the adjacent property.

§35.5 Construction and Equipment

- A. Design and construction: The swimming pool shall be designed and constructed in such a manner as to not endanger the health and/or safety of its users or non-users and to not interfere with the use and enjoyment of adjacent property.
- B. Filtering equipment: The swimming pool shall be required to have adequate equipment to properly recirculate, filter, algaecide and germicide the water of the pool with provisions and instructions for maintenance of same.
- C. Ladder or steps: The swimming pool must be equipped with proper safeguards for users of the pool. At least one (1) ladder, nor more than two (2) feet from the bottom of the pool, steps or equal, must be provided at a location to facilitate quick exit.
- D. Safety equipment:
 1. All swimming pools must have a rescue pole made of aluminum, fiber glass, bamboo or equal material, stored within fifteen (15) feet of the swimming pool's interior edge. The rescue pole shall be in length at least one-half (1/2) of the swimming pool's width, or one-half (1/2) of the swimming pool's diameter, depending on the type of pool.
 2. All swimming pools must have a ring buoy with at least twenty-five (25) feet of attached rope or cord prominently stored within ten (10) feet of the pool's interior edge. The type of ring buoy must meet the specifications as set for by the National Swimming Pool Institute or the American Red Cross.
- E. Referral to Zoning Officer: The Village Zoning Officer shall pass upon the safety and adequacy of the design, materials, construction and equipment of all swimming pools. In doing so, he may be guided by the minimum standards of residential pools of the National Swimming Pool Institute.
- F. Height: No part of the pool structure, with the exception of deck fencing, shall project more four and a half (4 ½) feet above the surrounding existing grade, except by special permit.

- G. Plumbing: Where applicable, all plumbing must conform to the plumbing regulations of the New York State Building Construction Code.

§35.6 Water Supply and Drainage

- A. Water supply:
1. There shall be no fixed or direct connection to any non-potable water supply.
- B. Drainage:
1. There shall be no drainage connection to a sanitary sewer.
 2. It must be possible to drain all pools into a storm sewer or a natural waterway either by gravity, siphon or through the filter pump system.
 3. There shall be no drainage over adjoining property without permission or consent of owners.

§35.7 Fence

- A. In ground swimming pool: Every in ground swimming pool shall be entirely encircled by a fence.
- B. Above ground swimming pool.
1. Every above ground swimming pool having all or any section of its exterior wall less than three and one-half (3 ½) feet, measured in a vertical line from the top of the exterior wall to the ground level, shall be entirely encircled by a fence.
 2. Every above ground swimming pool having an exterior wall three and one-half (3 ½) or more feet above the ground, using an entrance device other than a simple ladder for entrance and exit to the pool or its surrounding deck or platform, shall have a fence encircling the entrance device at least five (5) feet from the point where such permanent ladder or entrance device touches the ground or would touch the ground if extended downward.
- C. Height: The fence shall be at least four (4) feet in height and not more than six (6) feet in height. The fence shall be of rigid construction and not easily climbed or crawled under. The fence shall have a gate capable of being locked and be locked when unattended.
- D. Distance from wall: The fence for an in ground swimming pool and above ground swimming pool having an exterior wall of less than three and one-half (3 ½) feet in height shall not be less than five (5) feet from the inside wall of the pool and completely surround the swimming pool.
- E. Use of exterior walls of structures: Portions of exterior walls of the structures on the property or lot line fences may be used for these fencing requirements.
- F. Deck fence: An above ground swimming pool with a deck must have a fence of at least three (3) feet but not to exceed four (4) feet in height on the outside edge of the deck.

- G. Ladder: The use of a simple ladder as an entrance device is permitted for an above ground swimming pool, but it must be removed and stored when the swimming pool is unattended.

§35.8 Electrical Work and Heating

- A. Conformance with New York State Building Construction Code:* All lighting and electrical work shall conform to the New York State Building Construction Code and be inspected and approved by the New York State Board of Fire Underwriters. Also, all underground wiring and lighting shall be of low voltage.
- B. Disturbance of adjoining owners prohibited: No lighting shall be installed in such a manner that it may be an annoyance to the owners of adjacent property. Under normal circumstances flood lighting, the illumination of adjacent property, among other things, will be sufficient to constitute an annoyance.
- C. Safety restrictions: No pool shall be erected within ten (10) feet of existing electrical service lines, nor shall electrical lines be strung over the water surface or within four (4) feet of the outer edge of the pool.

§35.9 Maintenance

Every swimming pool presently constructed or installed, or hereafter constructed or installed, shall be maintained at all times in such a manner as never to constitute a public nuisance, a hazard or a menace to health or safety. Any such hazard which may exist, or develop in, or in consequence of, or in connection with any such swimming pool shall be forthwith abated and/or removed by the person in possession, owning or having jurisdiction over such pool, upon receive of notice from the Town.

§35.10 Reasonable Use

Use of a swimming pool shall be in a reasonable manner and at reasonable times so as not to cause undue discomfort and/or annoyance to adjacent residents.

§35.11 Existing Pools

All sections of this Chapter shall apply to existing pools except Subdivision A of §35.3, §35.4, Subdivisions E, F and G of §35.5 and §35.8.

*The New York State Building Construction Code was superseded by the New York State Uniform Fire Prevention and Building Code effective 1/1/84. Exec. L §377(1).

§35.20 Penalties for Violation

A person who shall violate any provision of this Chapter or fails to comply therewith, or shall violate or fail to comply with any order or regulation made there under, shall be guilty of a violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed two hundred fifty dollars (\$250.00).

Reference:

Regulation of swimming pools may be construed to be part of zoning regulations requiring compliance with statutory provisions for enactment and amendment of zoning laws. *Hillside Motel v. Tn. Of Brunswick*, 74 Misc 2d 1001.

CHAPTER 36

ADULT ENTERTAINMENT DISTRICT

§36.1

There are presently in the Western New York community a growing number of adult entertainment business uses and an increasing trend toward the concentration of adult entertainment establishments. Based upon the widely reported results of studies documenting and evaluating the nature and extent of adverse secondary effects caused by sexually oriented entertainment business uses in many communities in New York State and elsewhere in the United States, including a 1994 study by the New York State and elsewhere in the United States, including a 1994 study by the New York City Department of City Planning, a 1980 study by the Town of Islip, New York, a 1980 study in Minneapolis, Minnesota, a 1986 study undertaken in Oklahoma City, Oklahoma, and a 1977 Cleveland, Ohio Police Department report, and mindful of the results of numerous other studies and reports from the Village of Westbury, New York, the cities of Los Angeles, Garden Grove and Whittier, California, and the cities of St. Paul, Minnesota, Detroit, Michigan, Las Vegas, Nevada, Phoenix, Arizona, and Cleveland Ohio, and based upon the Village of Gowanda Planning Board's own study and recommendations concerning these matters, the Board of Trustees hereby finds ample evidence that adult entertainment uses do have many serious negative secondary impacts upon a community, such as increased crime rates, depreciation of property values and a deterioration of a community's business districts, its character and quality of life.

§36.2 Purpose

This article is intended to regular sexually oriented business uses that because of their very nature are recognized as having serious undesirable secondary effects upon adjacent areas and, over time, can have significant negative impact upon other types of business development in the area. Special regulation of these sexually oriented business uses is deemed necessary to ensure that these adverse effects will not negatively impact neighboring business uses and will not create pockets of blight or otherwise contribute to the downgrading of the surrounding neighborhoods. It is also recognized that because the Village of Gowanda is a relatively small, rural residential community, its resources would be severely strained to adequately address the potential of increased demand for law enforcement and crime prevention. The concentration or proliferation of such uses could cause the degradation of the community's small retail areas, the decline in property values and overall quality of our neighborhoods and could consequently significantly and adversely affect the welfare of the entire village. The provisions of this article are deemed minimally necessary to reduce or prevent such deleterious secondary effects. These special regulations are intended to accomplish the primary purpose of preventing a concentration of these uses in any one area, restricting their

accessibility to minors, placing them away from the residential areas and in a zoning district currently containing business uses that will not as likely be overwhelmed by a secondary effects of their presence.

§36.3 Definitions

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

Adult Book Store – A place that sells (or rents) or offers for sale (or rental) adult material, the gross sale and/or rental value of which represents more than 10% of the gross sales (and/or rentals) of the place, or that comprises more than 10% of the individual items displayed on the premises as stock in trade.

Adult Entertainment Cabaret – A public or private establishment that permits or allows performers, dancers or other entertainers to display or expose specified anatomical areas or specified sexual activity.

Adult Entertainment Establishment – An adult book store, an adult entertainment cabaret, an adult motion picture theater, an adult motel, a massage establishment, a peep show or other business establishment or private club or association presenting entertainment or products for its patrons or members that are characterized by an emphasis on or having as a primary or dominant or significantly prominent theme the display, sale, rental or exhibition of adult material or the presentation of specified sexual activity or specified anatomical areas for entertainment purposes.

Adult Material – Any one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, slides or other visual representations or recordings, novelties and devices that have as their primary or dominant theme matter depicting, illustrating or describing specified sexual activity or specified anatomical areas.
- B. Instruments, devices or paraphernalia designed for use in connection with specified sexual activity.

Adult Motel – A motel which is not open to the public generally but excludes minors by reason of age or which makes available to its patrons in their rooms films, slide shows or videotapes, which if presented in a public movie theater would not be open to the public generally but would exclude any minor by reason of age.

Adult Motion Picture Theater – Premises used for presenting films, motion pictures and/or videos, whether viewed in private booths or public assembly areas, with films, motion pictures and/or videos are characterized by an emphasis on matter depicting or describing or related to specified sexual activity or specified anatomical areas for observation by patrons therein for entertainment purposes.

Massage Establishment – Any establishment having a fixed place of business where massages or administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a New York State licensed massage therapist, a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

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

School – A public or private facility that provides a curriculum of basic, elementary or secondary academic instruction, including a preschool facility, a special education facility, a kindergarten, elementary school, junior high school, middle school and high school.

Specified Anatomical Areas –

- A. Less than completely and opaquely covered human genitals, pubic region, buttock or breast below a point immediately above the top of the areola.
- B. Human genitals in a discernible turgid state, even if completely and opaquely covered.

Specified Sexual Activity –

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Any act of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of the human genitals, pubic region, buttocks or breasts.
- D. Any act of actual or apparent human sexual activity, sexual stimulation, sadomasochistic abuse or sexual gratification.

§36.4 Regulated Adult Entertainment

Regulated uses include all adult entertainment establishments or uses which include, but are not limited to, the following:

- A. Adult book store
- B. Adult entertainment cabaret
- C. Adult motel
- D. Adult motion picture theater
- E. Massage establishment
- F. Peep show

§36.5 Restrictions

An adult entertainment establishment shall be permitted subject to the lot size, parking and other regulations of this chapter normally applicable to the underlying nature of this particular use (e.g., bookstore, theater, etc.) and also subject to the following additional restrictions:

- A. No adult entertainment establishment shall be allowed on a lot any part of which is within 500 feet of the nearest boundary line of any other lot containing an adult entertainment establishment, without regard to whether the existing adult entertainment establishment is in the Village of Gowanda or in an adjoining municipality.
- B. No adult entertainment establishment shall be located on a lot any part of which is within 1,000 feet of the nearest boundary line of any zoning district which is zoned for residential use or the nearest boundary line of any lot currently used for residential purposes.
- C. No adult entertainment establishment shall be located within 1,000 feet of a school, public library, civic center, municipal building, youth-oriented or child day care center, park, playground, motion picture theater or other area which children under the age of 17 normally congregate for the purpose of entertainment, education, medical or custodial care or a place of religious worship, such as a church, synagogue or temple, or a monastery, rectory or convent or a hospital or medical center.
- D. No more than one adult entertainment establishment shall be located on any lot.
- E. No adult entertainment establishment shall be located in any zoning district except as a special exception use in a CIP Commercial Industrial Park District.
- F. If the measurement in Subsections A, B or C of this section crosses a public or private road, street, highway or right of way, the diagonal distance across the full

width of such road, street, highway or right-of-way shall not be counted in determining the minimum distance between uses.

§36.6 Registration of Information Required

- A. Prior to the commencement of an adult entertainment establishment use on premises within the Village of Gowanda, the owner of a building or premises, his or its agent for managing or controlling rents or any other person managing or controlling a building or premises, any part of which contains an adult entertainment establishment, shall register with the Code Enforcement Officer of the Village of Gowanda the following information on a registration form prepared and provided by the Code Enforcement Officer at the request of the registrant.

§36.7 Exterior Display Prohibited

No adult entertainment establishment shall be conducted in any manner that allows the observation of any adult material or performance or any material depicting or describing specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult entertainment establishment. This provision shall apply to any display, decorations, sign, show window or other opening.

§36.8 Amortization Schedule for Existing Uses

- A. In the event that an adult entertainment should be located in the Village of Gowanda on the effective date of this article and is not in conformance with the provisions of this article, it shall relocate or otherwise terminate its non-conforming use in accordance with the following amortization schedule:

Amount of Capital Investment on Effective Date of Article	Date by Which Non-Conforming Use Shall Terminate
0 - \$5,000	July 1, 2006
\$5,0001 to \$10,000	January 1, 2007
\$10,001 to \$15,000	July 1, 2007
\$15,001 to \$20,000	January 1, 2008
\$20,001 to \$30,000	July 1, 2008
\$30,001 to \$45,000	January 1, 2009
\$45,001 to \$60,000	July 1, 2009
\$60,001 or more	January 1, 2010

- B. The term "capital investment" as used in the foregoing amortization schedule shall mean the initial outlay of money by the owner or operator of the use to establish the use or that part of the use that does not conform to the provisions of this article, exclusive of the fair market value of the structure in which the use is located.

§36.9 Severability

The provisions of this article shall be severable, any if any clause, sentence, paragraph, section or part of this article shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

CHAPTER 41

PARKS AND RECREATION AREAS

§41.1 Title

This Chapter shall be known and may be cited as the "Park Law of the Village of Gowanda, New York."

§41.2 Application

This Chapter shall apply to all parks and recreation areas of the Village of Gowanda.

§41.3 Regulations Relating to the Use of Village Parks

It shall be unlawful for any person to do any of the acts hereafter specified:

- A. Hours: To enter a park or recreation area prior to 9:00 am or remain within a park or recreation area after 9:00 pm, unless written authorization has been obtained from the Village Official designated by the Board of Trustees.
- B. Firearms: To take or otherwise transport any firearms, air guns, sling shots, or bows and arrows in parks or recreation areas. Responsibly supervised archery events will be allowed with written permission of the Village Official designated by the Board of Trustees.
- C. Preservation of property. To injure, deface, disturb or defoul any part of a park or recreation area or any of the buildings, signs, ball diamonds, equipment or other property found therein, or remove, injure or destroy any tree, flower, shrub, rock or other minerals. Peeling bark, cutting or injuring trees is prohibited. The riding of horses in a Village Park or recreation area, unless on approved bridle trails, is prohibited.
- D. Fires: To light any fire for any purpose in any part of a park or recreation area except in a stove, oven, or fire circle provided for that purpose. Lighted matches, cigarettes, cigars or burning tobacco must not be deposited or left where they may cause fires.
- E. Garbage and refuse: Grounds must be maintained in a clean and sanitary condition. Glass beverage bottles are prohibited in all Village parks and recreation areas. Littering of any kind is strictly prohibited. Garbage and refuse must be deposited in the receptacles provided.
- F. Hunting, fishing and trapping: To hunt or trap game within park and recreation areas boundaries; to fish within park boundaries where posted.
- G. Gambling: Gambling in parks or recreation areas is prohibited.
- H. Conduct: Public intoxication, disorderly, unruly and offensive behavior is prohibited.

- I. Vehicles prohibited: To drive or cause to be driven in a park or recreation area in the Village of Gowanda other than parking in authorized parking lots, any motor vehicle, motorcycle, motorbike, motor scooter, mini-bikes, snowmobiles, or any other type of motor vehicle, except service vehicles for the Village.
- J. Commercial enterprises: To sell or offer for sale within a park or recreation area any property or privilege whatsoever, unless authorized by the Village Official designated by the Board of Trustees.

§41.10 Penalties

Violation of any provision of §41.3 shall constitute a violation pursuant to the Penal Law subject to a fine not exceeding three hundred fifty dollars (\$350.00) or by imprisonment not exceeding fifteen (15) days, or by both such fine or imprisonment.

DRAFT OF “COMPLETE STREETS” POLICY

The Village of Gowanda hereby adopts the policy of “Complete Streets” when developing on our own or partnering with other agencies such as, United States Department of Transportation (USDOT) or New York State Department of Transportation (NYSDOT), in implementing a safe pedestrian, automobile and bicycle transportation system. It is the intent of the Village of Gowanda’s “Complete Streets” policy to encourage and promote safe, comfortable and convenient travel for all users in the village including children, adults, senior citizens and persons with disabilities whether pedestrians, bicyclists or motorists.

The Village of Gowanda encourages walking and bicycling for health. Bicycle and pedestrian facilities shall be provided in new construction, reconstruction and maintenance projects unless prohibited by law.

It is the intent of the Village of Gowanda to enable pedestrian, bicyclists, motorists and bus riders of all ages to safely move along and across a complete street in our village.

CHAPTER 44
STREETS AND PUBLIC PLACES

ARTICLE I

USE OF STREETS

§44.1 Excavations; Permission Required

No person shall injure any pavement, sidewalk, crosswalk or sewer or dig any area sewer or other excavation in any public street, nor remove any earth or stone therefrom, within the Village of Gowanda without permission in writing from the Superintendent of Public Works and under such conditions as the Superintendent of Public Works or Board of Trustees may impose, and the Superintendent of Public Works or Board of Trustees may order any sewer or excavation constructed contrary to the provisions of this section to be filled up or altered at the expense of the owner of the adjoining lands.

§44.2 Barricading Street Openings

Whenever any public street within said Village is in process of construction or repair, it shall be the duty of the person performing the work to place and maintain such sufficient barricades about said construction as to secure public safety until said street is ready for public use, and at all times during the night, time to keep adequate warning lights or signals upon said barricades so as to give adequate warning to all persons of such work.

§44.3 Storage of Building Materials in Street

No person shall place any materials for building or any other purpose upon any public street within the Village without permission in writing from the Superintendent of Public Works and approved by the Board of trustees. Such permission shall not be for a longer period than three (3) months nor shall it authorize the obstruction of more than one-third (1/3) of the sidewalk. Any person to whom permission is granted as aforesaid shall cause all said materials to be enclosed within such sufficient guards as to secure public safety and shall at all times during the night time keep adequate warning lights or signals upon said grounds in such a manner as to give warning to all persons of the presence of said materials. All such building materials and all rubbish, arising therefrom shall be removed from any public street at the expiration of the time limited in the above mentioned permit, or upon the revocation of said permit. Any such permit may be revoked without notice by the Superintendent of Public Works or the Board of Trustees at any time.

§44.4 Barriers or Excavations on Street Lines

Any person who shall dig any cellar or other excavation aforesaid to or within four (4) feet of the line of any public street within the Village of Gowanda shall erect such sufficient barriers between such street and excavation as to secure public safety, and during the night time, shall keep adequate warning lights or signals upon said barriers in such a manner as to give warning of such excavation; and if the owner shall fail to place said barriers and lights, then the Village may cause such barriers and lights to be placed at the expense of the person so in default.

§44.5 Removing Warning Lights or Barriers Prohibited

No unauthorized person shall remove or interfere in any way with any warning lights or signals or any barriers erected for public safety or any monument placed to locate the line of any public street, sidewalk or public improvement within the Village of Gowanda.

§44.6 Maintenance and Cleaning of Sidewalks

Every person or occupant of any building or owner of any vacant lot within the Village of Gowanda shall keep the sidewalk in front of such building or vacant lot free from snow, ice, grass, weeds, rubbish or other obstructions and shall, at all times, keep said sidewalk in a good state or repair. In the case of snow or ice, the sidewalk shall be cleaned no later than eight-thirty o'clock of the forenoon following the time of such deposit. If any person shall neglect or refuse to comply with the requirement of this section as to snow, ice or other obstruction or sidewalks out of repair, the Superintendent of Public Works shall cause all necessary work to be done at the expense of the person so in default, and if payment is not made by such person or persons, the same shall be assessed against the land upon the next tax roll of the Village.

§44.7 Repairing Laterals Sewers; Owner's Responsibility

Every owner or occupant of any building, or owner of any vacant lot with the Village shall at all times keep all lateral sewers to such building or vacant lot in repair. If any person shall neglect or refuse to comply with the requirements of this section the Board of Trustees shall cause all necessary work to be done at the expense of the person so in default, and if payment is not made by such person or persons, the same shall be assessed against the land upon the next tax roll of the Village.

§44.8 Obstructing Sidewalks Prohibited

No person shall place any merchandise or obstruction of any kind upon any sidewalk upon the public streets of the Village. No person shall place or suffer to remain any barrel, crate, article or other obstruction upon any public street or place with the Village so as to obstruct the free passage of people, except while actually engaged in loading or unloading goods.

§44.9 Trap Doors in Sidewalks

No person shall erect or maintain any trap door or grate in any of the sidewalks within the Village without written permission from the Superintendent of Public Works, and no trap door or grate in any of the sidewalks within the Village shall be kept open at any time except during the receiving or delivery of goods and during such time the same shall be surrounded by sufficient barriers as to secure public safety.

§44.10 Awnings

Cloth awnings may be erected in front of any street or building in the Village to project over the sidewalk not to exceed ten (10) feet provided such awnings be supported by a wire or metal frame work securely attached to said building in such a manner as to be at all times safe and self-supporting and provided that every part of such awning be at least seven (7) feet from the surface of the sidewalk. Every owner or occupant of any building within the Village shall at all times keep the awnings in front of such buildings free from snow and ice. No person shall suspend from any awning or over any sidewalk any merchandise or article of any kind. No wooden awnings shall hereafter be constructed within the Village of Gowanda.

§44.11 Fence Gates

No person shall construct or maintain a gate that shall swing outward over any sidewalk in the Village.

§44.12 Littering

No person shall throw, cast, drop, put or place, or having accidentally dropped, fail to pick up any bag, bottle, bottle cap, box, container, garbage, paper, piece of paper, wrapper, or any other trash or litter, in or upon any public park, place, playground, cemetery, fountain, street highway or building, except in receptacles provided for such purposes.

§44.13 Throwing Snow into Streets or Highways Prohibited

No person shall throw, put or place, or cause to be thrown, put or placed, any snow or ice into any public highway, street, public place or thoroughfare, in the Village.

§44.14 Throwing or Depositing of Debris or Trash in Highways Prohibited*

- A. No person shall sweep, throw or deposit, or cause to be swept, thrown or deposited, any ashes, dirt, stone, brick, leaves, grass, weeds, or any other debris or rubbish of any kind; or any water or liquid of any kind except for purposes of cleansing same into any public highway, street, gutter or public place or on any sidewalk within the Village.
- B. This section shall not apply to water or liquids running into streets as a result of fire fighting or flushing of fire hydrants by authorized personnel or the use in a reasonable manner of ashes, salt or other material for the purpose of reducing the hazard of, or providing traction on snow, ice or sleet.

§44.15 Littering by Trucks or Other Vehicles Prohibited

No truck or other motor vehicle or trailer or other mode of conveyance shall be operated or loaded in such a manner that any part or portion of its load, whether sane, gravel, stone, dirt, rubbish, paper, boxes, trash or other material shall be dropped, blow or caused to fall or drop upon any public highway, street, public place or thoroughfare in the Village.

§44.16 Fastening Animals

No truck or other motor vehicle or trailer or other mode of conveyance shall be operated or loaded in such a manner that any part or portion of its load, whether sane, gravel, stone, dirt, rubbish, paper, boxes, trash or other material shall be dropped, blow or caused to fall or drop upon any public highway, street, public place or thoroughfare in the Village.

§44.16 Fastening Animals

No person shall fasten any animal to any hydrant, tree or telephone or electric pole within the Village.

§44.17 Driving on Sidewalks

No person shall drive any vehicle or lead, ride or drive any animal along or upon any public sidewalk within the Village, except that baby carriages and invalids chairs, tricycles and bicycles with wheels of less than twenty (20) inches in diameter and children's toys may be propelled along sidewalks.

*See also V & T L §1220, regarding throwing refuse on highways.

§44.18 Obstructing Entrance to Public Place

No person or assemblage of persons shall occupy any sidewalk, street, bridge or entrance to any church, public place or place of assembly within the Village in such a manner as to obstruct the free passage of the public.

§44.19 Moving Buildings

No building or part thereof or structure of any kind shall be moved upon or along any public street or place within the Village without permission in writing from the Superintendent of Public Works which consent shall specify the course of removal and may require an undertaking first to be given signed by the applicant and one or more responsible sureties approved by the Superintendent conditioned that the applicant will in all respects comply with the terms and conditions of such permit, and indemnify the Village against any damage or loss occasional by reason of such removal.

§44.20 Erection of Posts, Planting of Trees

No person shall hereafter place or erect any post or posts, or plant any tree or trees in any street in the Village except at such place or places and in such manner as may be directed by the Superintendent of Public Works.

ARTICLE II

WIRES AND POLES

§44.21 Permit Required

No posts, poles, structures or supports used for supporting electric or other wire and no wires used or to be used for conducting electricity, shall be placed in, over and under any street, square, lane or alley in the Village of Gowanda without permission of the Board of Trustees. Such permission shall not become operative, take effect or have any validity until the person, firm or corporation to whom it is granted, file with the Village Clerk a written agreement assenting to the conditions contained in this Article, accepting said permit subject thereto and promising to abide by and perform all the conditions and provisions of the Municipal Code, local laws, ordinances and rules and regulations of the Village of Gowanda relating thereto and all provisions thereafter enacted amendatory thereof or supplementary thereto.

§44.22 Intended Location to be Stated in Application

Every application to the Board of Trustees for such permit shall state the intended location of each pole and wires and the purpose for which such pole and wires are to

be used, and if required by the Board of Trustees shall file a map of proposed construction.

§44.23 Indemnification of the Village

Every person, firm or corporation erecting, maintaining or using such poles, structures, supports or wires shall indemnify and save harmless the Village of Gowanda, its officers, agents and servants from and against all claims and demands for injuries or alleged injuries to persons or property occasioned by the existence of such poles, posts, structures, supports or wires or by the transmission of electric currents by means thereof; and the Village, the Board of Trustees or its officers, agents or servants exercising the rights, powers and permission herein, shall not be held liable for such person, firm or corporation on account thereof or by reason of any injury or damage caused thereby.

§44.24 Fire Alarm Reporting System Priority

The wires, posts, poles, structures and supports of the fire alarm reporting system shall at all times take precedence and right of way as to all other wires, posts, poles, structures and supports, maintained and erected in the Village of Gowanda and no lineman or any other person either in erecting wires, posts, poles, structures, and supports or in any way whatsoever shall interfere with or disturb, disarrange or change the fire alarm or any appurtenance thereof.

§44.25 Size and General Description of Poles

All poles for telegraph, telephone and electric lights shall be straight, properly trimmed and painted and shall be of iron, cedar, chestnut or hard pine or other material as may be directed by the Board of Trustees. Wherever any wires shall cross any street or way, they shall be at a height of not less than twenty-five (25) feet above said street or way and cross at right angles unless otherwise directed by resolution of the Board of Trustees.

§44.26 Poles to be Branded by Owner

All poles now standing or to be hereafter erected shall be braded or stamped with the initials of the company owning them at a point not less than five (5) or more than seven (7) feet from the street surface, and when a pole is occupied by wires belonging to more than one company, each group of cross arms or when necessary, the support of a single wire of different ownership must be designated by some characteristic paint, mark or fastening.

§44.27 Location of Poles

On all streets where curbstones are set all poles shall be erected between the sidewalk and the curb and where there are no curbstones the poles shall be erected so as not to interfere with the gutters, and the Board of Trustees may by resolution

direct at what place or places poles may be erected. No poles shall be erected within ten (10) feet of any hydrant, nor so as to interfere with any water pipes, driveway or intersection of a street. On streets where an underground conduit has been built for conducting electrical wires, no poles, posts or similar devices shall be permitted to be erected or permitted to remain, except where poles, posts or other similar devices are erected for street lighting purposes. In such case no pole or post shall be erected without the location being approved by the Board of Trustees.

§44.30 Power of Chief of Fire Department

In case of fire, the Chief of the Fire Department shall have full power and authority to order and cause any electric wires to be cut and removed and electric currents discontinued until the fire is extinguished.

§44.31 Reservation by Village for Fire Alarm Reporting System

The Village of Gowanda reserves the right to place wires on all telephone, telegraph, electric light and other poles erected in the Village at least two (2) feet below the other wires for use in connection with the fire alarm reporting system or for any other Village purpose, and every person, firm or corporation erecting or maintaining such poles shall, when directed by the Board of Trustees properly affix thereto, on the space reserved as aforesaid, and cause to be kept in proper repair and condition an arm, bracket or other fixtures as may be directed by the Board of Trustees for the exclusive use of the Village.

§44.32 Changing Location of Poles

Every person, firm or corporation erecting, maintaining, or using structures, supports or wires within the public streets of the Village of Gowanda shall change the location of such poles, structures, supports, etc. when directed so to do by resolution of the Board of Trustees if the Board of Trustees shall determine that such change is necessary on account of any public improvement.

ARTICLE III

ENCROACHMENT OF BUILDINGS INTO STREET

■ 44.35 Buildings Not to Project into Street

The construction of any building, projection or addition to any structure or building over, into or upon any street or sidewalk within the limits of the Village of Gowanda is hereby prohibited.

ARTICLE IV

GRASS AND WEEDS

§44.41 Space Between Street Lines and Curb Space to be Kept Free From Weeds and Obstructions

Every owner or occupant of any land or premises fronting upon or adjoining any street or highway within the Village shall keep that portion of the highway lying between the curb or gutter and the premises of such owner or occupant free from weeds, ashes, refuse or other obstruction and shall keep the grass cut at least once every three weeks and shall at all times keep such space properly graded at a grade to be approved by the Board of Trustees.

■ 44.42 Control of Grass and Weeds on Private Property

- A. It shall be the duty of the owner, lessee or person having charge of each and every parcel of land in this Village to keep said parcel free of harmful weeds and other rank or noxious vegetation.
- B. Grass shall be cut on improved private property at least every two weeks and on vacant parcels of land at least once every three weeks from the first day of May to the last day of October of each year. This provision shall not apply to land under cultivation, naturally wooded areas or undeveloped areas which are at least two hundred (200) feet distant from any occupied building or residence.

■ 44.45 Enforcement Procedures

Upon default of the owners to perform the work as specified in §44.41 and §44.42 the Village may perform same and assess the cost thereof against the real property concerned which shall constitute a lien and charge thereon until paid or otherwise satisfied or discharged and shall be collected by the Village Treasurer in the manner provided by law for the collection of delinquent taxes.

ARTICLE V

BILL POSTING AND BILLBOARDS

■ 44.51 Advertisements on Sidewalk, Hydrant or Poles

No person shall place any advertisement upon the sidewalk, hydrant, lamp post, tree, telephone, telegraph or electric light poles or public buildings in any public street or place within the Village,

■ 44.52 Billboards

No person shall erect or maintain any billboard within the Village without the permission of the Board of Trustees. Every applicant for permission to erect a billboard within the Village is required to give one week's notice in writing personally or by mail of such application to the owners, occupants or agents of all houses or lots within a distance of two hundred feet from the place where such billboard is to be erected. No such application shall be considered by the Board of Trustees without verified proof of the service of the notice herein describe. The written consent of the owners, occupants or agents to the erection of such billboard may be presented with the application to the Board of Trustees.

■ 44.53 Fences not to be Used

No fence or other structure within the Village shall be used as a billboard without the consent of the Board of Trustees. The same notice and proof required by the preceding section of this Article shall be necessary to obtain the consent of the Board of Trustees to use such fence or structure as a billboard.

ARTICLE VI

SHADE TREES

■ 44.61 Trees not to be Trimmed or Removed Without Permission

No person shall trim, prune, climb or remove any living tree in any street or public place or cut or break any branch or root thereof without written permission of the Board of Trustees.

§ 44.62 Horses or Other Animals not to be Hitched to Trees

No person shall fasten a horse or other animal to any living tree or shrub in any street or public place, nor cause a horse or other animal to stand so that the said animal may injure any such shrub or tree.

44.63 Wires not to be Attached to Tree Without Consent

No person shall attach any electric wires, guy wires, insulator or other device for the holding of wire to any living tree in any street or public place without written permission of the Board of Trustees.

■ 44.64 Wires, how to be Located

Every person running any wire intended for the conveyance of electricity along or upon any street or public place shall so locate the same and shall from time to time so change the location thereof as may be directed by the Board of Trustees in order to avoid injury to trees.

ARTICLE VII

INDEMNITY BONDS

■ 44.71 Bonds Required

All applications made to the Board of Trustees or to any Village Office to make any excavation in or upon any public street, avenue, alley or other public place within the Village for the purpose of making sewer, water or gas connections therein, or for permission to construct and maintain an area way under the sidewalk, or under any public street, or place within the Village, or for consent or permission to plant, trim, cut or remove any tree or part of a tree, or to place any obstruction, temporary or otherwise, except as hereinafter mentioned in any street, avenue or other public place within the Village, shall be accompanied by a bond in the penal sum hereinafter specified with sufficient sureties to be approved by the Board of Trustees or the Mayor, and as to form and manner of execution to be approved by the Village Attorney, to be given by the person by or in whose behalf such consent or permission is requested, indemnifying the Village against all loss, cost, damage or expense sustained or recovered on account of negligence, omission or act of the applicant for such permit, or any of his, it or their servants or agents, arising or resulting directly or indirectly by reason of such permit or consent or any excavation, construction, cutting, removal or other act done, made or permitted under authority of any such permit or consent. All such permits or consents for the making of any such excavation, the construction or maintenance of any area way, the planting, trimming, cutting or removing of any tree, the placing of any such obstruction or the doing of any other act, shall be given subject to the right of the Board of Trustees or any other authorized Village Officer, servant, or agent, to remove the same at any time prior to the expiration thereof, either absolutely or to continue the same upon such terms and conditions as he or they may deem advisable, and all bonds given pursuant to the provision for this Article as a condition precedent to the granting of any application aforesaid shall contain a stipulation to that effect.

■ 44.72 Penalty of Bond

In all cases in which applications are made to the Board of Trustees or to any other Village Officer for permission to construct or maintain area ways under sidewalks or any public street or place, or for consent or permission to construct or maintain any permanent excavation in or under any street or public place or for consent or

permission to place any permanent structure or obstruction of any kind upon, any street or other public place within the Village, the penalty of the bond to be required shall not be less than five thousand dollars (\$5,000.00) and in all other cases the penalty of the bond to be required shall not be less than two thousand dollars (\$2,000.00).

§44.73 General Bond

Plumbers, contractors and all persons, firms or corporations engaged within the Village in the telephone business, gas or electric business, compressed air cleaning business or any other business the nature of which would require or result in frequent applications for permits to make obstructions or excavations in the streets or highways in the Village shall not, however, be required to furnish a separate bond for every permit as a condition precedent to the granting of the same, but in all such cases a general bond shall be given before the granting of any permit indemnifying the Village of Gowanda from any and all loss, cost or damage as aforesaid resulting or raising, directly or indirectly at any time from any act done or permitted in pursuance of any such permit or consent thereafter granted in the penal sum of five thousand dollars (\$5,000.00) in the manner and form to be approved as hereinbefore provided. The Board of Trustees shall have the right to require a new bond to be filed by any person engaged in any or either of the classes of business above specified whenever from time to time it shall deem a new bond and in such an amount as it shall determine necessary in order to protect the interests of the Village of Gowanda.

§44.74 Agreements in Lieu of Bond

The foregoing sections of this Article shall not apply to applications by owners or occupant for consents or permits for the placing of gravel for construction, repair or improvement purposes or for the placing of articles, equipment or material in the streets temporarily and for such time, not exceeding one week, as shall be designated in such permit and along the sides of the driveways in such place or places opposite to premises occupied by the owner or applicant as shall be designated in the permit and so as not to obstruct traffic nor to the planting, trimming, cutting or removal of trees if the Mayor of the Village of Gowanda or the Village Clerk shall so determine, provided, however, that the applicant shall in all cases accompany such application with an agreement in writing executed by him with or without a surety or sureties as the Mayor or the Village Clerk against any loss, cost or damage by reason for the granting of any such permit or the placing by the applicant of any such gravel, articles, equipment or material aforesaid, or the doing by him of any act in pursuance of such permit.

Cross References:

Loitering. §65.71
Noises. §65.31 - §65.33
Open Beverage Containers. §65.21, §65.22

References:

Streets, sidewalks and public grounds, Vil L Art 6, §6-600 - §6-628.
Acquisition of land for parks, etc., Vil L §6-624.
Bridges, care of, Vil L §6-604, §6-608.
Construction or repair, Vil L §6-606.
Grade, changing of, Vil L §6-616.
Liability of village, limitations on, Vil L §6-628.
Pavements, Vil L §6-622.
Sidewalks, payment for construction, Vil L §6-620.
Street, dedication of, Vil L §6-610, §6-612.
Street improvement or acceptance, Vil L §6-612.
Streets by prescription, Vil L §6-626.
Streets on boundary lines, Vil L §6-618.

CHAPTER 46

SANITARY SEWERS

ARTICLE I

DEFINITIONS

§46.1 Definitions

Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

“ACT” shall mean the Federal Water Pollution Control Act (PL 92-500), as amended by the Clean Water Act of 1977 (PL 95-217) et. Seq.

“BOD” (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees centigrade (20 C) exposed in milligrams per liter.

“BUILDER” shall mean any person, persons or corporation who undertakes to construct, either under contract or for resale, any habitable building.

“BUILDING DRAIN” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, or other drainage pipes inside the wall of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

“BUILDING SEWER” shall mean the extension from the building drain to the public sewer or other place of disposal.

“COMBINED SEWER” shall mean a sewer receiving both surface runoff and sewage.

“DEBT RETIREMENT” shall mean that portion of the total charge for sewer which is specifically for retirement of the capital cost of construction.

“DEVELOPER” shall mean any person, persons or corporation who undertake to construct simultaneously more than one housing unit on a given tract or land subdivision.

“EASEMENT” shall mean an acquired legal right for the specific use of land owned by others.

"GARBAGE" shall mean solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

"INDUSTRIAL WASTES" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

"NYDEC" shall mean the New York State Department of Environmental Conservation.

"NATURAL OUTLET" shall mean any outlet into a water course, pond, ditch, lake and other body of surface or groundwater.

"OPERATION AND MAINTENANCE" shall mean those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and maintaining such works for the purposes they were designed and constructed to perform. The term "operation and maintenance" includes replacement as defined in Section 22.

"OWNER" shall mean any individual, firm, company, association, society, corporation, group or person having title to real property.

"pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

"PERSON" shall mean any individual, firm, company, association, society, corporation or group.

"PRIVATE SEWAGE DISPOSAL" shall mean any septic tank, cesspool, and holding tank or like for receiving sewage from an individual house or building.

"PROPERLY SHREDDED GARBAGE" shall mean the waste from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimensions.

"PUBLIC SEWER" shall mean a sewer in which all owners of abutting properties have equal rights and is owned or controlled by public authority.

"REPLACEMENT" shall mean expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.

"SANITARY SEWERS" shall mean a sewer which carries sewage to which storm, surface and ground waters are not intentionally admitted.

“SEWAGE” shall mean a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.

“SEWAGE TREATMENT PLANT” shall mean any arrangement of devices and structures used for treating sewage.

“SEWAGE WORKS” shall mean all facilities for collecting, pumping, treating and disposing of sewage.

“SEWER” shall mean a pipe or conduit for carrying sewage.

“SHALL” is mandatory, “MAY” is permissive.

“SIGNIFICANT USER” shall mean any person who (a) discharges more than 1.0% of the design flow or design loadings (Examples: Total dissolved solids, BOD), for the sewage treatment plant; (b) discharges industrial waste; or (c) discharges water or waste which, in the opinion of the Superintendent, can either alone or in combination with other waste, injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant.

“SLUG” shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

“STORM DRAIN” (sometimes termed “Storm Sewer”) shall mean a pipe or conduit which carries storm and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

“SUPERINTENDENT” shall mean the Superintendent of Sewage Works for the Village of Gowanda, or his duly authorized deputy, agent or representative.

“SUSPENDED SOLIDS” shall mean solids that either float on the surface of or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

“TREATMENT WORKS” shall mean any Village owned devices and systems for the collection, storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and their appurtenances, extensions, improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal or residues resulting from such treatment (including land for composting

sludge, temporary storage of such compost and land used for the storage of treated wastewater in land treatment systems before land application); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.

"USEFUL LIFE" shall mean the estimated period during which a treatment works will be operated.

"USEPA" shall mean the United States Environmental Protection Agency.

"USER CHARGE" shall mean the portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

"VILLAGE BOARD" shall mean the duly elected Board of Trustees of the Village of Gowanda or their authorized deputy or representative.

"WPCF" shall mean the Water Pollution Control Federation.

"WATER COURSE" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

"WATER METER" shall mean the water volume measuring and recording device, furnished, installed and approved by the Village of Gowanda.

ARTICLE II

USE OF PUBLIC SEWERS REQUIRED

■ 46.21 Unsanitary Disposal of Wastes Prohibited

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the Village of Gowanda, or in any area under the jurisdiction of said Village, any human or animal excrement, garbage or other objectionable waste.

■ 46.22 Discharge of Untreated Sewage Prohibited

It shall be unlawful to discharge to any natural outlet within the Village of Gowanda, or in any area under the jurisdiction of said Village, any sewage, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Local Law.

46.23 Use of Sewers

Use of separate storm sewers and sanitary sewers is mandatory for all future construction in the Village. Construction of combined sewers will not be allowed in the future.

§46.24 Use of Privies, Septic Tanks and Other Facilities Restricted

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

§46.25 Connection to Available Public Sewer Required

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Village of Gowanda, and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the Village, is hereby required at his expense to install facilities directly with the proper public sewer in accordance with the provisions of this Local Law within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet (30.5 meters) of the property lines.

ARTICLE III

PRIVATE SEWAGE DISPOSAL

§46.31 Private Sewage Disposal

Where a public sanitary or combined sewer is not available under Article II, §46.24, building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.

§46.32 Permit Required; Fee

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit and approval of the Superintendent of the Health Officer. The application for such permit shall be made on a form furnished by the Village, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee of ten dollars (\$10.00) shall be paid to the Village at the time the application is filed.

§46.33 Inspection

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered.

§46.34 Compliance with State Health Recommendations

The types, capacities, locate and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of New York. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than five thousand (5,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§46.35 Connection with Public Sewer when Available

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Article II, Section 5, a direct connection shall be made to the public sewer in compliance with this Local Law within sixty (60) days, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

§46.36 Operation at Owner's Expense

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the Village.

§46.37 Health Officer May Impose Additional Requirements

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer or the NYSDEC.

ARTICLE IV

BUILDING SEWERS AND CONNECTIONS

§46.41 Permit Required to Connect with Public Sewer

No authorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

§46.42 Classes of Building Sewer Permits

There shall be two (2) classes of building-sewer permits:

1. For residential and commercial service.
2. For service to significant users or establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the Village. The permit application shall be supplemented by an plans, specifications or other information considered pertinent in the judgment of the Superintendent. A permit and inspection fee of ten dollars (\$10.00) for a Residential or Commercial Building Sewer Permit and twenty dollars (\$20.00) for a Significant User/Industrial Building Sewer Permit shall be paid to the Village at the time the application is filed.

§46.43 Costs to be Borne by Owner

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

§46.44 Separate Building Sewers; Exceptions

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, however, the Village will not assume any responsibility for damage caused by or resulting from any such single connection. Where building sewers are to serve multiple dwelling structures, there shall be provided at last one (1) separate building sewer for each group of four (4) living units.

§46.45 Old Building Sewers, When Permitted

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Local Law.

§46.46 Construction to Conform to Rules and Regulations

Building sewers shall have a diameter of 4" minimum with a minimum slope of ¼" per foot. Sewer pipe approvable for building sewer construction include plastic pipe SDR-35 conforming to ASTM Designation D-3034 with flexible rubber gasket joints no greater than ten foot lengths or ductile iron pipe if the owner submits a method of

joining satisfactory to the Superintendent. Sewer pipe bedding shall be placed so that the entire length of pipe will have full bearing. Adequate bedding shall consist of 4" of select granular backfill beneath the pipe and 6" over the pipe. Select granular backfill material shall be approved by the Superintendent and consist of sound, hard, durable, well-graded stone, run-of-bank gravel or other acceptable granular material with maximum size of 1 ½". This material shall be free of frozen lumps, foreign materials or other objectionable material.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the State Building Construction Code or other applicable rules and regulations of the Village. In the absence of code provisions, or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.

§46.47 Required Elevation of Building Sewer

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage or industrial waste carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

§46.48 Drainage Connections to Sanitary Sewers Prohibited

No person shall make connection to roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

§46.49 Standards for Connection to Public Sewer

The connection of the building sewer into the public sewer shall conform to the requirements of the State Building Construction Code or other applicable rules and regulations of the Village, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No.9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

§46.50 Superintendent to Inspect Connection

The applicant for the building sewer permit shall notify the Superintendent prior to the placing backfill when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

§46.51 Guarding of Excavations; Restoration

All excavations for building-sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village.

§46.52 Serving Schools, Hospitals or Public Building

When any building sewer is to serve a school, hospital, or similar institution or public building, or is to serve a complex of industrial or commercial buildings, or which, in the opinion of the Superintendent, will receive sewage or industrial wastes of such volume or character that frequent maintenance of said building sewer is anticipated, then such building sewer shall be connected to the public sewer through a manhole. The Superintendent shall determine if and where this type of connection to the public sewer is required and recommend procedures for its installation. The new manhole shall then be installed in the public sewer at the Owner's expense and the building sewer connection made thereto under the supervision of the Superintendent or his representative.

§46.53 Building Sewer Service or Repair

Building sewers shall be serviced and repairs by the owner of the property being served.

§46.54 Building Sewer Cleanouts

There shall be an accessible cleanout on the building drain near its junction with the building sewer outside the building or at a wye branch fitting or building tap immediately inside the building.

ARTICLE V

USE OF PUBLIC SEWERS

§46.55 Discharge of Surface Waters Prohibited in Sanitary Sewer

No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.

§46.56 Discharge of Storm Water or Unpolluted Drainage

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer or natural outlet. Discharges to waters of the State of New York are subject to State and Federal regulations and may require a State Pollutant Discharge Elimination System (SPDES) Permit issued by the NYSDEC.

§46.57 Prohibited Wastes or Waters

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- A. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- B. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either alone or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to, cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
- C. Solids or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, ungrounded garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- D. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such a degree that the sewage treatment plant cannot meet the requirements of other agencies having jurisdiction, for items such as" treatment plan effluent discharging to the receiving stream, sludge, residue, or scum disposal criteria on land, or air emissions.

§46.58 Restrictions on Discharge of Certain Wastes

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the

sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited unless specifically approved in writing by Village Permit are:

- A. Any liquid, vapor or wastes having a temperature higher than one hundred fifty degrees Fahrenheit (150 F) or sixty-five degrees Celsius (65 C) or containing heat in such quantities so as to cause the temperature of the treatment plant influent to exceed one hundred four degrees Fahrenheit (104 F) or forty degrees Celsius (40 C).
- B. Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of twenty-five (25) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two and one hundred fifty degrees Fahrenheit (32 and 150 F) or zero and sixty-five degrees Centigrade (0 and 65 C).
- C. Any garbage that has not been property shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (1.76 hp metric) or greater, shall be subject to the review and approval of the Superintendent.
- D. Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not.
- E. Any waters and wastes containing toxic substances in excess of the following levels:

<u>Parameter</u>	<u>Level (mg/l)</u>
Arsenic	0.05
Cadmium	0.07
Total Chromium	0.05
Copper	1.80
Cyanide	0.3
Lead	0.30
Mercury	0.2
Nickel	1.0
Silver	0.24
Zinc	1.50

- F. Any waters or wastes containing phenols in excess of 0.5 mg/l or other taste or odor producing substances in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.

- G. Any radioactive wastes and isotopes of such half life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- H. Any waters or wastes having a pH less than five point zero (5.0) or in excess of nine point five (9.5).
- I. Materials which exert or cause:
 1. Unusual concentration of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 2. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
 3. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 4. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
 5. Excessive order as determined by the Superintendent.

NOTE: For purposes of this Local Law, any concentrations exceeding the following limits shall be considered unusual. All other determinations of unusual concentrations, if not specified in this Local Law, shall be at the Superintendent's discretion.

Total Solids	900 mg/l
Total Dissolved Solids	600 mg/l
Total Suspended Solids	300 mg/l
Settle able Solids	200 mg/l
BOD	250 mg/l
Chemical Oxygen Demand	700 mg/l

- J. No person shall increase the use or process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards or in any other pollutant-specific limitation developed by the Village, USEPA, NYSDEC or other regulatory body unless specifically approved in writing by the responsible agency.

§46.59 Actions to Restrict Certain Wastes

- A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in §46.59 of this Article, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or

constitute a public nuisance or which exceed the concentration limits contained in this Local Law, the Superintendent may:

1. Reject the wastes.
2. Require the pretreatment to an acceptable condition for discharge to the public sewers.
3. Require control over the quantities and rates of discharge, and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of §46.63 of this Article.
5. Require surveillance and/or monitoring necessary to determine the extent of non-compliance with appropriate documentation.

Any person discharging waste to the public sewer who anticipates a significant change in volume or character of the discharge must obtain approval from the Superintendent in writing fifteen (15) days prior to commencement of the discharge. Any person notified by the Superintendent that the Village is rejecting the waste shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the rejection order, the Village shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the sewer works or endangerment to any individuals. The Village shall reinstate service upon proof of the elimination of the non-complying discharge and after assurance that the person responsible for the discharge will submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. This statement shall be submitted to the Superintendent within fifteen (15) days of the date of occurrence.

If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of the Municipal Code and all applicable codes, ordinances and laws. In addition, thirty (30) days after the pretreatment or equalization is operational, the owner must provide a certification to the Superintendent, backed by whatever testing the Superintendent may require, indicating when the applicable pretreatment requirements are being achieved on a consistent basis and, if not, describe the steps to be taken, along with a proposed schedule, to achieve compliance.

§46.60 Interceptors, When Required

Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable waste, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and open to inspection by the Superintendent at any time.

§46.61 Facilities to be Maintained by Owner

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, the design of such processor equipment shall be subject to review and approval by the Superintendent prior to installation. These facilities shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

§46.62 Manholes, When Required

When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

§46.63 Measurements, Tests, Analyses

All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in this Local Law shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by the customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls, whereas pHs is determined from periodic grab samples.)

Measurements, tests and analyses of the characteristics of wastewater required by this Local Law shall be performed by a laboratory certified in New York State.

§46.64 Special Agreements Permitted

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Village and an industrial concern for treatment of unusual waste at the expense of the industrial concern provided that the agreement or arrangement in no way violates Article V of this Local Law, the Federal

Categorical pretreatment Standards, or National Pretreatment Standards as listed in 40 CFR 403.59a) and (b).

§46.65 Determination Issued by the Superintendent

Upon the promulgation of the Federal Categorical pretreatment Standards for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under this Local law for sources in that subcategory, shall immediately supersede the limitations imposed under this Local law. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

§46.66 Discharges of Industrial Waste Violating Local Law

Any person discharging industrial waste to the public sewer shall notify the Superintendent immediately upon accidentally discharging wastes in violation of this Local Law. This notification shall be followed, within fifteen (15) days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrences. Such notification will not relieve liability for any expense, loss or damage to the sewage works, or any fines imposed on the Village under applicable State and Federal regulations as to discharges of industrial waste. Persons discharging industrial waste are to post a notice advising their employees to call the Village office in case of an accidental discharge in violation of this Local law and to provide copies of this Local law for their information.

ARTICLE VI

PROTECTION FROM DAMAGE

§46.67 Penalty for Damaging or Tampering with Sewer

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charges as set forth in the Local laws for the Village of Gowanda or the Penal Law of the State of New York.

§46.68 Contractor's Certificate of Insurance

Before the Superintendent issues a permit for construction of a building sewer, sewer extensions, or private sewage disposal, a contractor must present a Certificate of insurance showing suitable liability insurance of not less than \$100,000 per personal injury, property damage or per occurrence.

ARTICLE VII

SIGNIFICANT USERS

§46.69 General

The requirements outlined in this Article are in no way intended to replace other requirements of this Local Law, but are to supplement all other requirements.

§46.70 Determination of Significant User

Within ten (10) days after the effective date of this Local law, the Village will submit a notice in writing to each person discharging to the public sewer whom they suspect qualifies under the definition of "significant user." However, failure of the Village to submit a notice to a person who qualifies as a significant user does not relieve that person from adhering to the requirements associated with the significant user classification.

§46.71 Significant User Discharge Permit

Any significant user existing at the time of the enactment of this local Law shall make written application for a Village discharge permit on forms on file at the Village Office within forty-five (45) days after the effective date of this Local law. In the case of future significant users, a written application must be submitted not less than ninety (90) days prior to the proposed connection date to the public sewer.

§46.72 Additional Data

The applicant shall provide data requested on the application form. However, the Village reserves the right to require additional information deemed to have a direct bearing on the kind and source of discharge to the sewers or waterways on facilities for waste treatment. The additional information required may include;

- A. A flow diagram delineating why and all wastewater streams;
- B. Analysis of any and all wastewaters generated on the premises or potentially capable of entering the public sewer;
- C. The quantity and frequency of wastewater flows.

§46.73 Permit Approval

The Village will officially respond to a complete application for a discharge permit within thirty (30) days. An existing significant user must have a valid discharge permit approved by the Village within ninety (90) days after the effective date of this local law or be considered in violation. Any future significant user must obtain a valid discharge permit prior to discharge to the public sewer.

§46.74 Duration of Permits

All discharge permits issued to significant users under this Local law shall be issued by the Village. The Village, in its sole discretion, shall determine the duration of the permit, and shall specify the time of expiration. Under no circumstances shall a permit be issued for any period of time in excess of five (5) years from the date of issuance. The permit may be reissued, providing that such application be made at least ninety (90) days prior to expiration of existing permit. The terms and conditions of the permit may be subject to modification by the Village during the term of the permit as limitations or requirements are modified or other just cause exists. The significant user shall be informed of any proposed changes in his permit in writing at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

§46.75 Permit Transfer

Permits are issued to a specific user for a specific operation. A permit shall not be reassigned or transferred, or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Village. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

§46.76 Changes to Permit

Any significant user who anticipates a significant change in volume or character of the discharge to the public sewer must not only obtain approval from the Superintendent, but may also be required to seek modification to the discharge permit.

§46.77 Permit Terms and Conditions

The following terms may be imposed by the Village in the issuance of a Wastewater Discharge Permit to a Significant User:

- A. A limitation upon the characteristics, volume of wastewaters and the rate of flow permitted from the premises.
- B. The installation and maintenance (including calibration) by the permittee at his own expense for facilities or equipment, including but not limited to devices for intermittent or continuous measurement of wastewaters discharged; facilities or equipment for reducing the maximum rates of discharge; pretreatment and flow control facilities; suitable controls or sampling manholes; grease, oil and sand interceptors, separators or traps.

- C. Maintenance of appropriate records of all measurements of wastewaters made by the permittee.
- D. The submission to the Village of periodic reports (as frequent as weekly), signed by an authorized representative, setting forth adequate data upon which the acceptability of the wastewaters may be determined subsequent to the commencement of operation of any pretreatment or flow control facilities.
- E. Reimbursement of Village costs to independently sample and analyze the quantity and quality of the significant user's waste stream as frequently as weekly.
- F. Such other terms and conditions as may be necessary to protect the Village sewage works and to carry out the intent and provisions of this Local Law.

§46.78 Permit Fee

A fee of fifty dollars (\$50.00), payable to the Village of Gowanda, shall accompany the significant user's application for a Village discharge permit.

ARTICLE VIII

POWERS AND AUTHORITY OF INSPECTORS

§46.79 Right to Make Inspections and Inquiries

The Superintendent and other duly authorized employees of the Village bearing proper credential and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this Local Law. This authority shall also allow the Superintendent or his representatives to inspect and copy all industrial wastewater discharge records which the discharger is required to keep to be in conformance with Federal, State or Local regulations. The Superintendent or his representative may require additional information and data be submitted to distinguish wastewater from normal domestic sewage. However, the Superintendent or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. Any information requested by the Superintendent shall be provided at the owner's expense.

If the results of the aforementioned monitoring efforts indicate that a person has committed a violation, the Village shall reserve the right to hire an independent laboratory, certified and/or approved by the New York State Department of Environmental Conservation and/or the U.S. Environmental Protection Agency, to secure and analyze samples of the wastewater. The samples shall be secured and analyzed for the purpose of confirming or negating the violation. If the results of the analyses substantiate a violation, the costs shall be borne by the violator; if, however,

the results indicate that a violation has not occurred, the costs shall be borne by the Village.

§46.80 Observation of Safety Rules

While performing the necessary work on private properties referred to in Section 1 of this Article, the Superintendent or dually authorized employees of the Village shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the Village employees and the Village shall indemnify the company against loss or damage to its property by Village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by the negligence or failure of the company to maintain safe conditions as required in Article V, Sections 7 and 8.

§46.81 Entry on Easements

The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purpose of, but not limited to, inspection, observation, measurement, sampling, repair, replacement, improvement and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private properties involved.

§46.82 Government Agencies' Powers and Authority

Authorized employees of the NYSDEC and USEPA shall have the same powers and authority provided to the Superintendent under this Article.

§46.83 Inspections and Reports Available to the Public

Information and data obtained from inspections, reports, questionnaires, permit applications, permits and monitoring programs shall be made available to the public or other governmental agency without restriction unless the person responsible for the discharge specifically requests and is able to demonstrate to the satisfaction of the Superintendent and Village Board that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets.

When requested by the person furnishing a report, the portions of a report which might disclose the trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Local Law, the National Pollutant Discharge Elimination System (NPDES) Permit, and State Disposal System Permit; provided, however, that such portions of a report shall be available for use by New

York State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the Village as confidential, shall not be transmitted by the Village to any governmental agency until and unless a ten day (10 day) notification is given to the person providing such information.

ARTICLE IX

USER CHARGE SYSTEM

§46.84 Short Title

This Article and Article IX-A through Article IX-I, inclusive, shall provide the method by which the charge for use of the Village sewer system shall be calculated and said Articles, collectively, may be known and referred to as the "User Charge System.":

§46.85 General Information

The User Charge System includes only operation, maintenance and replacement costs as defined in Article I of this Chapter and does not include capital cost replacement. Capital costs will be levied in a manner determined by the Village Board in accordance with applicable New York State Law. The User Charge System is intended to be in compliance with the Federal Register dated February 17, 1984, Section 35.2140 entitled, "User Charge System."

ARTICLE IX - A

BASIS FOR CHARGES

Section 1. This User Charge System shall distribute the cost of operation and maintenance (understood to include replacement) of the sewage works to each user or user class in proportion to each user's contribution to the total wastewater loading of the sewage works, with no discount for large volume users.

Section 2. A flat rate per gallon times the metered use of water recorded quarterly will be the basis to determine each user's contribution to operation and maintenance costs. That rate shall be \$1.80 per 1000 gallons of water usage, effective with water meter reading applicable to the 1st quarter of 2007.

Section 3. The cost of annual operation and maintenance for all flow not directly attributable to users (i.e., infiltration/inflow) shall be distributed to each user or user class in the same manner that operation and maintenance costs are distributed, consistent with CFR Part 35, Section 35.2140(e)(1).

Section 4. The Village will consider substituting actual wastewater flow measurement on the basis for determining user's contribution to operation maintenance cost. Such measurement must be from a wastewater flow meter installed at the point of discharge to the Village public sewer system. All costs associated with design, purchase, installation and maintenance, etc., shall be borne by the user.

ARTICLE IX – B

USE OF FUNDS

Section 1. The revenues collected as a result of the User Charges levied shall be deposited in a separate non-lapsing self-supporting enterprise fund.

Section 2. Fiscal year end balance in the operation, maintenance and replacement fund shall be used for no other purpose than those designated. Monies which have been transferred from other sources to meet temporary shortages in the operation, maintenance and replacement fund shall be returned to their respective accounts upon appropriate adjustment of user charge rates for operation, maintenance and replacement. The user charge rate(s) shall be adjusted such that the transferred monies will be returned to their respective accounts within six months of the fiscal year in which the monies were borrowed.

Section 3. Adoption of this User Charge System will obligate the Village to institute an adequate financial management system consistent with 40 CFR Part 35, Section 35.2140(d).

ARTICLE IX – C

FACTORS AFFECTING CHARGES

Section 1. In addition to any and all other fees or charges provided by law, the owner of any parcel of real property connected with said sewer system by means of a private sewer system or drain emptying into the sewer system, shall pay a sewer rental for the use of the sewer system.

Section 2. Each user shall pay for the service provided by the Village of Gowanda based on his use of the treatment works as determined by water meter readings.

Section 3. In those cases where a single water meter serves more than one user (example: 1 meter for a two-family home), the bill will be equally distributed between users.

Section 4. A minimum charge will be assessed against any user who utilizes less than 6656 gallons per quarter. That charge shall be \$12.00.

Section 5. If the Village is unable to obtain a quarterly water reading, water use will be estimated. Such estimate shall be based upon the most recent actual quarterly water meter reading of the Village obtained immediately preceding the billing date, if such reading is available at the time of the billing date.

Section 6. Any user which discharges any waters or wastes which cause an increase in the cost of managing effluent or sludge from the Village's treatment works; or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works, shall pay for such increased costs.

The user charge rates established in this system apply to all users of the Village's treatment works except to the extent that such rates are governed by separate intermunicipal agreement or other contractual arrangement.

Water used in a manner so that it will not enter the sanitary sewer, in conformity with the regulations of the Village, need not be included in determining actual water use provided it is separately metered. The Superintendent must approve the meter, its installation, and witness calibration by a factory representative before metered results will be considered valid. The Superintendent and his representative will be allowed access to the meter, and all costs for purchase, installation, maintenance, recalibration, etc. will be borne by the property owner.

If a structure contributed wastewater to the Village sanitary sewers from a source other than the public water supply (example: private well), the owner shall install and maintain at his own expense a water meter under the stipulation identified in the previous paragraph.

ARTICLE IX – D

BILLINGS

All sewer rents shall be collected from each property owner of premises on the first day of January, April, July, and October of each and every year thereafter based upon quarterly water use reading, and the same shall be payable within fifteen (15) days thereafter, and upon expiration of the fifteen (15) day period to pay said sewer rentals, there shall be a ten percent (10%) penalty for each delinquent sewer bill. The said ten percent (10%) penalty

shall be consistent until the same shall be added to the tax roll of the Village of Gowanda according to the provisions of the Village Law of the State of New York.

The property owner will be billed for said sewer rentals, but the Village will not be responsible in the failure of any property owner to receive such bill. The payment thereof shall not be excused because of such failure to receive.

ARTICLE IX – E

SURCHARGES

Any significant users who discharge substantial quantities of wastewater, industrial waste or unusual strength wastewater will incur a surcharge in addition to the normal user charge. For purpose of this User Charge System, any concentration exceeding the following limits shall be considered unusual;

<u>Parameter</u>	<u>Concentration</u>
Total Solids	900 mg/l
Total Dissolved Solids	600 mg/l
Total Suspended Solids	300 mg/l
Settleable Solids	15 mg/l
BOD	260 mg/l
Chemical Oxygen Demand	700 mg/l
Total Phosphorus	2.1 mg/l

The surcharge to be assessed against those discharging unusual strength shall be calculated in accordance with the following formula:

$$CS = [Bc(b) + Sc(S) + Pc(P)] Vu + (Fc) (F)$$

- Cs = A surcharge for wastewaters of excessive strength or excessive volume
- Bc = O&M cost for treatment of a unit of BOD (\$_____/mg/l BOD)
- B = Concentration of BOD from a user above 250 mg/l
- Sc = O&M cost for treatment of a unit of total suspended solids (\$_____/mg/l suspended solids)
- S = Concentration of total suspended solids from a user above 300 mg/l.
- Vu = Volume contribution from a user per unit of time.
- Fc = O&M cost for treatment for excessive flow per unit of time above Permitted amount (\$/gallon/time).
- F = Flow volume per unit of time from a user in excess of permitted Amount.
- Pc = O&M cost for treatment of a unit of Total Phosphorus (\$_____/mg/l P)

P = Concentration of total phosphorus from a user above 2.1 mg/l.

The Village reserves the right to require a Significant User to reimburse the Village to independently sample and analyze the quantity and quality of the Significant User's waste stream and report such results as frequently as weekly as noted in Article VII of this Local law Governing Sanitary Sewers. This data shall be the basis for calculating the surcharge for Significant User. In addition, the Superintendent may perform periodic sampling and analysis and secure the services of an independent laboratory if the discharge of unusual waste is suspected. If the suspicion is verified by laboratory data, this information may also be utilized as the basis for a surcharge.

Example Calculation

If weekly data indicates that BOD has exceeded the 250 mg/l threshold on four (4) occasions within the twelve (12) week (yearly quarter) billing period with values of 300, 260, 270 and 290 mg/l respectively the BOD surcharge would be based upon the average overage (50+10+20+40 divided by 4 or 30 mg/l) and the actual flow during those periods. If actual flow is unavailable, a direct percentage of four (4) occasions in twelve (12) or 33% of the water volume recorded for the quarter will be applied.

Cs = [(\$ per mg/l per gallon) (30mg/l)] (33% of recorded flow in gallons)

Users are reminded that the Village has adopted this surcharge system so that a significant user is aware of the consequences of occasionally discharging wastewater of unusual strength or flow which do not have a significant detrimental impact on the treatment works. However, the Superintendent retains the authority to reject waste, require pretreatment etc. as specifically outlined in Article V of this Chapter.

ARTICLE IX – F

INCONSISTENT AGREEMENTS

This User Charge System shall take precedence over any terms or conditions of agreements or contracts between the Village and users (including industrial users, municipalities, Federal agencies, or installations) which are inconsistent with the requirements of Section 204(b)(1)(A) of the Act and Section 35.2140 of the February 17, 1984 Federal Register.

ARTICLE IX – G

OUTSIDE INTERESTS

If wastewater is accepted from sewage works owned and operated by outside interests or municipalities, then the subscribers receiving waste treatment services from the Village shall have adopted an appropriate user charge system consistent with the requirements referenced in Article VIII of this Section. Such user charge systems shall be incorporated in to the appropriate municipal legislation enactments or other appropriate authority.

Any revenue generated from the operation of the sewage works (specifically charges received from haulers discharging septage for treatment) shall be used to offset costs of operation and maintenance consistent with 40 CFR, Part 35, Section 35.2140 (f).

ARTICLE IX – H

APPEALS

Any user who feels his user charge is unjust and inequitable may make written application to the Village requesting a review of his user charge. Said written request shall, where necessary, show the actual or estimated average flow and/or strength of his wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made.

The following procedure is established for taking appeals from the rate-fixing determinations of the Village.

Procedure:

- A. All such appeals shall be in writing and mailed within forty-five (45) days of the date of mailing of the bill from which the appeal is taken signed by the property owner appealing from the rate-fixing determination, shall be addressed to the Village Board by Certified mail, return receipt requested, showing the party to whom delivery was made, shall state concisely the reason why the property owner believes said determination is inequitable and shall state the address to which notices to the property owner shall be sent.
- B. Within forty-five (45) days of the receipt of the appeal, the Village Board shall respond by either notifying the property owner of agreement with the result requested or notifying the property owner in writing of reasons for denying the appeal.
- C. If the Village Board shall desire to take testimony or gather additional information concerning the appeal, it shall notify the property owner by mail at least seven days before the forty-five (45) day response period, specifying the area and means of the intended inquiry
- D. An appeal by a property owner shall not suspend the obligation to pay charges or penalties for late payment of non-payment. The Village shall cause to be refunded,

within thirty (30) days of a decision, any amount of overpayment and penalty as determined by the decision of the appeal.

ARTICLE IX – I

PERIODIC REVIEWS

The Village will review the user charge at least annually and revise the rates as necessary to ensure the following:

- A. That adequate revenues are generated to pay the costs of operations and maintenance, including replacement.
- B. That the system continues to provide for the proportional distribution of operation and maintenance, including replacement costs, among users and user classes.

The Village will notify each user at least annually of the rate being charged for operation, maintenance including replacement of the treatment works.

The Village will apply excess revenues collected for operation and maintenance in a given year to the following year and adjust rates accordingly.

ARTICLE X

PENALTIES

§46.86 Violation of Article VI, §46.67

Any person who shall violate any provision of Article VI, §46.67 of this Chapter shall be guilty of an offense and on conviction thereof shall be punished by a fine not exceeding two hundred and fifty dollars (\$250.00).

§46.87 Written Notice of Violation

Any person found to be violating any provision of this Local Law, Federal or State Pretreatment Requirements, except Para. Article VI, Section 1, shall be served by the Village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correcting thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The Village reserves the right to publish annually in the largest local newspaper the names of those persons who have significant violated provisions of this Local Law within the last twelve (12) months.

§46.88 Continued Violation

Any person who shall continue any violation beyond the time limit provided for in Subdivision B herein, shall be guilty of an offense, and on conviction thereof shall be punished by a fine not exceeding three hundred dollars (\$30.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

The Village Attorney on his own initiative or at the request of the Superintendent shall have the right to seek equitable relief in any court of appropriate jurisdiction in the name of the Village to restrain the violation of, or to compel compliance with, any order or determination issued by the Superintendent.

§46.89 Civil Liability

Any person violating any of the foregoing provisions of this Local Law shall become liable to the Village for any expense, loss or damage occasioned the Village by reason of such violations.

ARTICLE XI

VALIDITY

§46.90 Conflict with Local Law

Whenever any local law or a provision thereof shall be in conflict with requirements of this Chapter regarding the use, operation or control of the public sewer system or of the discharge or treatment of sewage, the requirements of this Chapter shall control.

§46.91 Validity of this Local Law

The invalidity of any section clause, sentence, or provision of this Local Law shall not affect the validity of any other part of this Local Law which can be given effect without such invalid part or parts.

§46.92 Village Right of Revision

The Village reserves the right to amend or supplement this Local Law and establish more stringent limitations or requirements on discharges to the public sewer if deemed necessary to comply with the overall objectives of this Local Law.

ARTICLE XII

SEWER EXTENSIONS

§46.93 Design of Sewer Extensions

All extensions to the sanitary sewer system owned and maintained by the Village shall be properly designed in accordance with the Standards for Waste Treatment Works, Municipal Sewerage Facilities as published by NYSDEC. Plans and specifications for sewer extension shall be submitted to and approved by the Superintendent and other regulatory agencies as required before construction may proceed. The design of sewers must anticipate and allow for flow from all possible future extensions or developments within the immediate drainage area.

§46.94 Construction by Public Contract

Sewer extensions may be constructed by the Village under public contract if, in the opinion of the Village Board, the number or properties to be served by such extension warrants its cost. Under this arrangement, the property owner shall pay for an install the building sewer from the public sewer to his residence or place of business in accordance with the requirements of Article IV. Property owners may propose sewer extensions within the incorporated Village by drafting a written petition, signed by a majority of the benefiting property owners, and filing it with the Village Board. The cost of such extensions may be assessed to the benefited property owners in any manner determined by the Village Board.

§46.95 Construction by Private Concerns

If the Village does not elect to construct a sewer extension under public contract, the property owner, building or developer may construct the necessary sewer extension, if such extension is approved in accordance with the requirements of §46.93 of this Article. He or they may pay for the entire installation, including all expenses incidental thereto. Each building sewer installed must be installed and inspected as previously required and the inspection fees shall be paid. The periodic inspection by the Superintendent and the expenses for this inspection shall be paid for by the owner, building or developer. The Superintendent's decision shall be final in all matters of quality and methods of construction. The cost of sewer extension thus made shall be absorbed by the developers or the property owners, including all building sewers.

§46.96 All Sewers to be Owned and Maintained by Village

All sewer extensions constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the Superintendent, shall become the property of the Village and shall therefore be maintained by the Village. Said sewers, after their acceptance by the Village, shall be guaranteed by the owner, builder or developer against defects in materials or workmanship for eighteen (18) months. The guarantee shall be in a form provided for by the Village. At the sole

discretion of the Village, a completion bond or certified check may be demanded as part of the guarantee.

§46.97 Approved Method of Waste Disposal Required

No builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities within the Village, unless a suitable and approved method of waste disposal is proposed. All new developments shall be provided with any approved system of sanitary sewers. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

ARTICLE XIII

EFFECTIVE DATE

§46.98 Effective Date

This Local Law shall become effective upon its filing in the Office of the Secretary of State.

APPENDICES

Building Sewer Permit Applications:

- (1) Residential and Commercial**
- (2) Private Sewage Disposal**
- (3) Significant Users or Establishments Producing Industrial Wastes**

Significant User Application

CHAPTER 47

REGULATION THE USE OF ROLLERBLADES AND SKATEBOARDS IN THE VILLAGE OF GOWANDA

This Local Law shall be entitled, "A Local Law Regulating the Use of Rollerblades and Skateboards in the Village of Gowanda," and shall become a Village of Gowanda Municipal Code Section 47.17 A.

§47.1 Definitions

As used in this Local Law, rollerblades have its usual and common meaning. It includes in-line rollerblades worn on the operator's feet and roller-skates worn on the operator's feet.

As used in this Local Law, a skateboard has its usual and common meaning. It includes a single platform maintained on wheels and designed or suitable for riding underfoot or a board with roller-skate wheels or other similar wheels attached to the underside without a mechanism or other device for steering while being used, operated or ridden.

§47.2

No person shall operate or ride any device commonly known as in-line rollerblades or a skateboard upon or in any of the places designated in §47.3 below as a restricted area.

§47.3 Restricted Areas

Restricted areas include sidewalks and other public areas within the following areas:

- A. That area designated on the Zoning Map of the Village of Gowanda as General Business District B-1 and B-2, as the same may be amended from time to time.
- B. That area within the General Business Districts B-1 and B-2 which includes West Main Street from the intersection of Chapel Street; Jamestown Street from its intersection of Walnut Street; Water Street from its intersection of Walnut Street; Buffalo Street from its intersection of Mechanic Street.

§47.4 Safety of In-Line Rollerblading and Skateboard Riders

Persons who operate in-line rollerblades and skateboards shall not wear headphones while operating rollerblades and skateboards.

§47.5 Manner of Rollerblade and Skateboard Operation

No person himself shall ride or operate in-line rollerblades or a skateboard recklessly, or in such a manner as to cause danger or injury to himself/herself or to others in any areas permitted.

§47.6 Parents of In-Line Rollerblade and Skateboard Riders

The parent of any child and/or guardian of any ward, shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this Local Law.

§47.7 Trick Riding

No person riding or operating in-line rollerblades or skateboards shall perform any acrobatic, fancy, stunt or trick riding upon any public right-of-way, or upon any space, land, property or facilities owned or controlled by the Village of Gowanda which would tend to create a danger or hazard to pedestrians or damage to property. This Section shall not prohibit rollerblading or skateboarding on any public facility that the Village of Gowanda specifically designated as a rollerblading or a skateboarding facility. However, any person riding or operating rollerblades or a skateboard on such a rollerblade or skateboard facility shall comply with all rules and regulations of the Village of Gowanda or its designee applying for the use of such facility.

§47.8 Penalties

A violation of any provision of this Local Law shall be punishable by a fine not to exceed two hundred and fifty dollars (\$250.00).

The parent of any child and/or guardian of any child, who authorizes permits or allows any such child to violate any provision of this Local Law shall be subject to a fine as above provided.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

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A violation of any provision of this Local Law shall be punishable by a fine not to exceed two hundred and fifty dollars (\$250.00).

The parent of any child and/or guardian of any child, who authorizes permits or allows any such child to violate any provision of this Local Law shall be subject to a fine as above provided.

This Local Law shall take effect immediately upon filing with the Secretary of State of the State of New York.

CHAPTER 54

ANIMALS

ARTICLE I

ANIMALS AND FOWL RUNNING AT LARGE

§54.1 Certain Animals and Fowl Not to Run at Large

No person being the owner, harbors or having control or custody of any horse, cattle, goats, sheep or fowl shall suffer or permit such animals or fowl to run at large within the Village of Gowanda.

§54.2 Seizure of Animals or Fowl Running at Large

Any animal or fowl running at large contrary to the provisions of this Article within the limits of the Village of Gowanda shall be subject to seizure and impounding by any police officer or any person or agency designated by the Village or authorized by law to seize and impound such animal or fowl.

§54.3 Redemption of Seized Animals or Fowl

- A. After any such seizure and impounding, the owner of such animal or fowl, if known, shall be notified thereof.
- B. Such animal or fowl so seized and impounded shall be held for a period of five (5) days, during which time the owner of such animal or fowl may recover the same by paying the sum of three dollars (\$3.00) for the seizure and impounding of such animal or fowl, and the further sum of three dollars (\$3.00) per day for each day or part thereof, after the seizing and impounding for the keeping, feeding and caring for such animal or fowl while in custody, which said sum shall be paid to the Village of Clerk or authorized person or agency in charge of impounding such animal or fowl.

§54.4 Disposal of Unredeemed Animals or Fowls

If any animal or fowl so impounded is not redeemed as provided in this Article, the Police Department or person designated by the Village for the purpose of seizing such animal or fowl may order the destruction of such animal or fowl and, provided that such animal or fowl is not redeemed by the lawful owner or his duly authorized and designated by the Village as the keeper of such animal or fowl may deliver such animal or fowl to any person upon payment of the impounding fee and four (4) days

keep and the owner thereof shall forfeit all rights and ownership I and to such animal or fowl.

§54.5 Records

The person in charge of the animal or fowl so impounded shall keep a record setting forth the date of the impounding of the animal or fowl, the date and manner of its disposal and, if redeemed, the name of the person by whom redeemed, the address of such person and the amount of all fees received or collected for or because of the impounding. The sum received for seizures and impounding shall be paid over to the Village Clerk.

ARTICLE II

DOG CONTROL

§54.31 Definitions

When used in this Article, unless otherwise expressly stated:

- A. Owner shall include any person, owning, harboring, or keeping a dog within the limits of the Village, and the parent, guardian or other adult person with whom a minor dog owner resides.
- B. "Dog" includes any member of the species *canis familiaris* unless otherwise indicated herein.
- C. "Run at large" means to move about, over, across or upon any public or private property, premises, street, alley or thoroughfare other than that of the owner or of a person who has consented thereto unless accompanied by the owner and effectively controlled and restrained by an adequate collar, harness or leash.
- D. "Habitually barking or crying dog" shall mean any dog that continuously barks or cries for a period of ten (10) minutes or longer.

§54.32 Certain Dogs Not to Run at Large

No person who is the owner of a dog shall permit such dog to run at large which is:

- A. A dangerous dog.
- B. A dog which chases vehicles of any kind in the streets.
- C. An unsprayed female in time of heat.

§54.32-A Dogs at Large

No owner shall permit any dog to be at large elsewhere than on the premises of such person or on the premises of another person with the knowledge, consent and approval of said other person. The owner, harbinger, keeper or person having custody or control of such dogs shall effectively control and restrain and be of sufficient ability to effectively control and restrain such dogs by an adequate collar or harness and leash, except when such dogs are on the premises of said person or on the premises of another person with the knowledge, consent and approval of such other person.

§54.33 Habitually Barking Dog

No person shall harbor or maintain within the Village of Gowanda any dog which habitually barks or cries between the hours of 10:00 pm and 6:00 am or disturbs the peaceful living of any person.

§54.34 Prohibited Acts of Dogs

No person, owning, harboring, keeping or having the custody and control of a dog shall suffer, permit or allow such dog to urinate, defecate or commit any other nuisance, or to damage property of the public or of another, in any park, public building, street, parking lot or upon any public sidewalk or on any private property.

§54.35 Impoundment of Dogs in Violation

Any dog running at large within the limits of the Village of Gowanda contrary to the provisions of this Chapter shall be subject to seizure and impounding by any Police Officer or the Dog Control Officer or by any other person or agency designated by the Village or authorized by law to seize and impound such dog.

§54.36 Disposal of Seized Dogs

Any dog seized as provided in this Article should be maintained, redeemed, destroyed or disposed of as provided in Agricultural and Market Law §118.

§54.37 Procedure for Complaints

- A. Complaints of violations of any of the foregoing provisions of §54.32, §54.33 or §54.34 of this Chapter shall be made on forms, to include a detailed information and appearance ticket, provided by the Village of Gowanda and signed by the complainant before a notary public of the State of New York or a member of the Police Department of the Village of Gowanda. Any person who owns or harbors a dog in violation of any provision of this Article shall be notified officially in writing by the Village Clerk or complaints. Such notice shall be served personally upon the owner or by registered mail or certified mail. The dog involved if prohibited to run at large shall be kept on a leash of not more than six (6) feet or impounded at

once; and the owner shall be allowed seven (7) days immediately following the issuance of the notice in which to eliminate any violation of this Article.

- B. If the owner shall, after the time allowed in such notice, fail to abate such violation, the Dog Control Officer or a peace officer observing a violation of this Local Law in his presence or having reasonable cause to believe such violation to have occurred shall issue and serve an appearance ticket for such violation. The appearance ticket shall be in the form prescribed by the Village of Gowanda by resolution in accordance with the provisions of the Agricultural and Markets Law §126 and this Local Law. An answer to such appearance ticket shall be made within seven (7) days of the violation, by registered or certified mail, return receipt requested, in lieu of a personal appearance on the return ticket, in accordance with the provisions of the Agriculture and Markets Law §26 and this Local Law.
- C. Upon receipt of an appearance ticket alleging a violation, the accused, at his option, may plead guilty by mail within five (5) days of the receipt of said appearance ticket and forward the appropriate fine by certified check or money order made payable to the Village of Gowanda. In this event the plea of guilty by mail shall be deemed a conviction after trial.

§54.38 Dog Control Officer

A Dog Control Officer to be designated by the Village Board, as provided by §114 of the Agriculture and Markets Law, may enforce the provisions of this ordinance and may also investigate and report to the Town Justice of Persia or Collins any dangerous dog, as described in §121 of the Agriculture and Markets Law, and see that the order or orders of the Justice of the Peace in such case are carried out.

§54.39 Authority of Town Justices

Upon receipt of the Town Justice of any complaint against the conduct of any particular dog, the Justice may summon the alleged owner or other person harboring said dog to appear in person before him; if the summons is disregarded, the Justice may permit the filing of an information and issue a warrant for the arrest of such person. [Article II amended, LL #1, 83, adopted 7/1/83; §54.32A added LL #1, 84, filed OSS 2/27/84.]

ARTICLE III

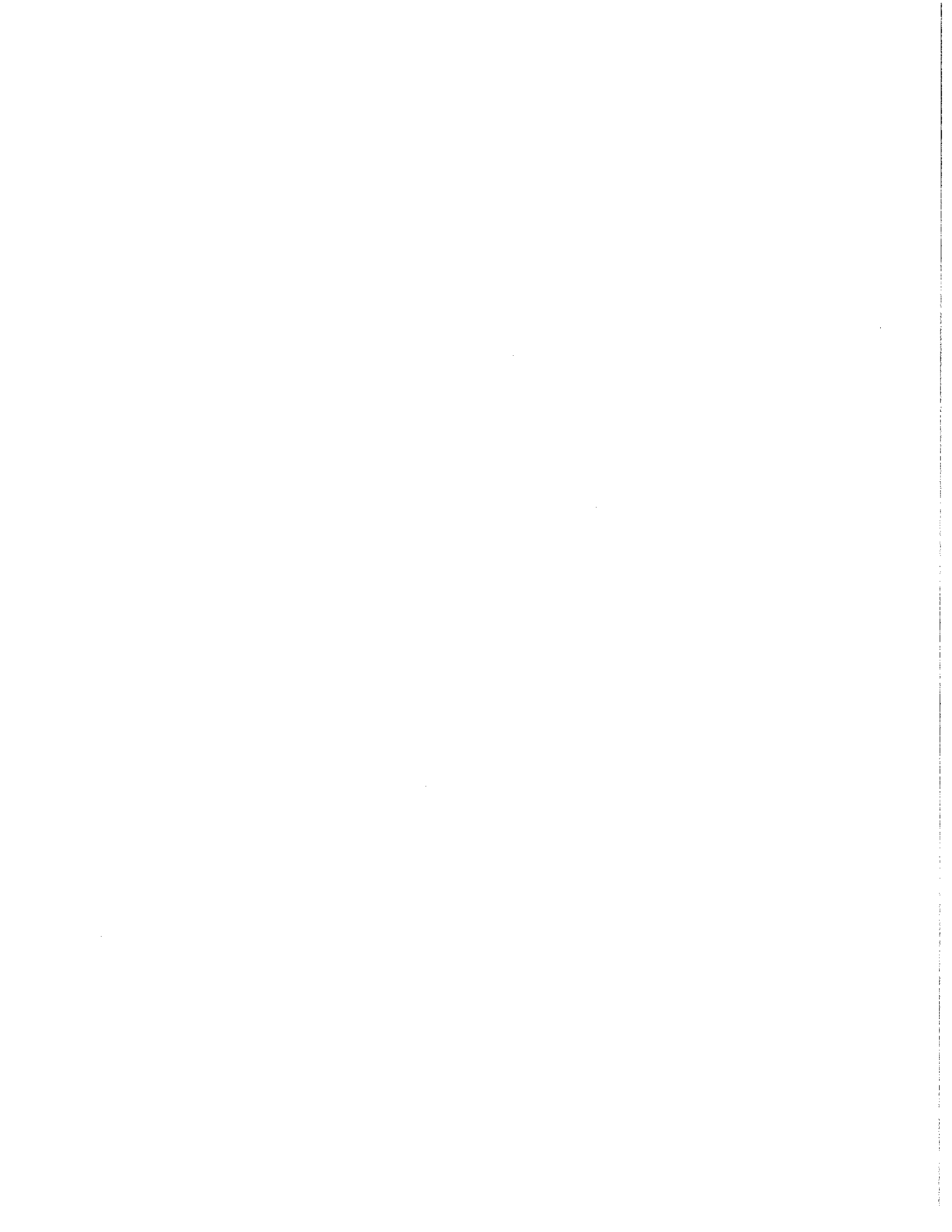
PENALTIES

§54.50 Penalties

- A. Dogs: The owner of the dog in violation of this Chapter following the expiration of the time limit set forth in the official notification of complaint shall, if such violation has not been eliminated, pay a civil penalty, which such civil penalty shall be collectable by and in the name of the Village of Gowanda, in the amount of twenty-five dollars (\$25.00) and each twenty-four (24) hour period of violation following the expiration of the time limit specified in such notice shall constitute a separate violation. [Subd. A amd. LL #1, 83; adopted 7/1/83.]
- B. Other Animals and Fowl: Any person who violates §54.1 of this Chapter or fails to redeem any such animal or fowl as herein provided before the sale of the same by the person who shall have custody of such animal shall be punishable by a fine not to exceed twenty-five dollars (\$25.00) for each and every violation.

Reference:

- Pigeons, capturing of. Conserv L §185.
keeping of. People v. Benincasa (970) 63 Misc 2d 648.



CHAPTER 55

FIRE PREVENTION

§55.1 Applicability

This Chapter shall provide the basic method for administration and enforcement of Chapter C entitled, "Fire Prevention Code" of the New York State Uniform Fire Prevention and Building Code, hereinafter referred to as the "Fire Prevention Code."

§55.2 Short Title

This Chapter shall hereafter be known and cited as the "Fire Prevention Code Enforcement Law."

§55.3 Administration

- A. The Village Building Inspector is hereby designated Fire Prevention Code Inspector and shall, in addition to his or her other duties, be charged with the administration and enforcement of the Fire Prevention Code within the Village of Gowanda.
- B. The Fire Prevention Code Inspector may be assisted by such officers and members of the Village Fire Department as he or she may designate from time to time. Each of the persons so designated shall have authority to make inspections and otherwise enforce the Fire Prevention Code except with respect to the issuance, revocation or suspension of permits but a copy of each inspection, report or other official action shall be filed with the Fire Prevention Code Inspector.
- C. The Mayor shall have the authority to appoint as Fire Prevention Code Inspector a person other than, and in the place and stead of, the Building Inspector if he or she shall deem such action necessary for the efficient and effective enforcement of the State Fire Prevention Code. Such appointment shall be subject to the approval of the Board of Trustees.

§55.4 Rules and Regulations

- A. Adoption by Fire Prevention Code Inspector: The Fire Prevention Code Inspector may adopt rules and regulations for the administration and enforcement of the Fire Prevention Code. Such rules and regulations shall not conflict with the Fire Prevention Code, this Chapter or any other provision of law.

- B. Approval by Board of Trustees: The Board of Trustees shall approve by resolution all rules and regulations adopted by the Fire Prevention Code Inspector before they shall become effective.

§55.5 Permits

- A. Issuance: Upon payment of fee as prescribed in the schedule of fees adopted by the Board of Trustees, permits shall be issued by and bear the name and signature of the Fire Prevention Code Inspector and shall specify:
1. Activity or operation for which permit is issued.
 2. Address or location where activity or operation is to be conducted.
 3. Name and address of permittee.
 4. Permit number and date of issuance.
 5. Period of permit validity.
- B. Non-transferrable: Permits shall not be transferable and any change in activity, operation, location, ownership or use shall require a new permit.
- C. Indefinite term; limitations: Permits shall continue until revoked or for a period of time designated at the time of issuance. An extension of the permit time period may be granted provided a satisfactory reason can be shown for failure to start or complete the work or activity authorized within the required time period.
- D. Activities for Which Permits are Required:
1. Acetylene Generators: To operate an acetylene generator having a calcium carbide capacity exceeding five (5) pounds.
 2. Automobile Tire Rebuilding Plants: To operate an automobile tire rebuilding plant.
 3. Automobile Wrecking Yards: To operate an automobile wrecking yard.
 4. Bowling Establishments: For bowling pin refinishing and bowling lane resurfacing operations involving the use and application of flammable or combustible liquids or materials.
 5. Cellulose Nitrate Motion Picture Film: To store, keep or have on hand more than twenty-five (25) pounds of cellulose nitrate motion picture film.
 6. Cellulose Nitrate Plastics (pyroxylin):
 - a) To store, keep or have on hand more than twenty-five (25) pounds of cellulose nitrate plastics (pyroxylin).
 - b) To manufacture articles of cellulose nitrate plastics (pyroxylin) this shall include the use of cellulose nitrate plastics (pyroxylin) in the manufacture or assembling of other articles.
 7. Combustible Fibers: To store, handle, or use combustible fibers in quantities in excess of one hundred (100) cubic feet except agricultural products on a farm.
 8. Combustible Materials: To store combustible materials including but not limited to empty combustible packing cases, boxes, barrels, or similar containers, rubber tires, baled cotton, rubber, cork, or other similar materials in excess of 2,500 cubic feet gross volume on any premises.

9. Compressed Gases:
 - a) To store, handle, or use at normal temperatures and pressure more than:
 - 1) 2,000 cubic feet of flammable compressed gas; or
 - 2) 6,000 cubic feet of non-flammable compressed gas.
 - b) To store, handle, or use any quantity of liquefied natural or hydrogen gas.
10. Cryogenics: To store, handle or use cryogenic fluids, except cryogenics used as a motor fuel and stored in motor vehicle tanks, as follows:
 - a) Production, sale, or storage of cryogenic fluids.
 - b) Storage or use of flammable cryogenic fluids, cryogenic oxidizers or liquefied oxygen in excess of ten (10) gallons.
11. Dry Cleaning Plants: To use in excess of four (4) gallons of solvents or cleaning agents classified as flammable or combustible.
12. Dust Producing Plants: To operate any grain elevator, flour, starch, or feed mill, woodworking plant, or plant pulverizing aluminum, coal, cocoa, plastics, magnesium, spices, sugar, sulfur or other materials producing explosive-potential dust.
13. Explosive, Ammunition and Blasting Agents:
 - a) To manufacture, possess, store, sell or otherwise dispose of explosives and blasting agents.
 - b) To use explosives or blasting agents.
 - c) To operate a terminal for handling explosives for blasting agents.
14. Flammable and Combustible Liquids:
 - a) To store, handle or use flammable liquids in excess of six and one-half (6 ½) gallons inside dwellings; or in excess of ten (10) gallons inside any other building or other occupancy; or in excess of sixty (60) gallons outside of any building. This provision shall not apply to:
 - 1) Liquids in the fuel tank of a motor vehicle, aircraft, portable or stationary engine, boat or portable hearing plant;
 - 2) Paints, oils, varnishes or similar flammable mixtures, when such liquids are stored for maintenance, painting, or similar purposes.
 - b) To store, handle, or use combustible liquids in excess of twenty-five (25) gallons inside a building, or in excess of sixty (60) gallons outside of a building. This provision shall not apply to fuel oil used in connection with oil burning equipment.
 - c) A permit shall be obtained for the initial installation of an oil burner and a fuel oil tank used in connection therewith. A permit shall be required for the replacement of a fuel oil tank connected to an oil burner.
 - d) For processing, blending, or refining of flammable or combustible liquid.
15. Flammable Finishing: For spraying, coating or dipping operations utilizing flammable or combustible liquids.
16. Fruit Ripening Process: To conduct a fruit ripening process using ethylene gas.
17. Fumigation and Thermal Insecticidal Fogging: To conduct fumigation or thermal insecticidal fogging operations.
18. Hazardous Chemicals:
 - a) To store, handle or use more than fifty-five (55) gallons of corrosive liquids; or more than fifty (50) pounds of oxidizing materials; or more than

ten (10) pounds of organic peroxides; or more than fifty (50) pounds of nitromethane; or one thousand (1,000) pounds or more ammonium or any amount of toxic material or poisonous gas.

- b) To store, handle, or use any quantity of air-reactive, water-reactive, or unstable materials.

19. Junk Yards: To operate a junk yard.

20. Liquefied Petroleum Gas: For each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers of over two thousand (2,000) gallons water capacity and for each permanent installation, irrespective of size of containers, made a buildings in which twenty (20) or more persons congregate for civic, political, educational, religious, social or recreational purposes. Installers shall maintain a record of all installations and replacement of portable cylinders and have it available for inspection.

21. Lumber Yards: To operate a lumber yard.

22. Magnesium: For melting, casting, heat treating, machining, or grinding of more than ten (10) pounds of magnesium per working day.

23. Matches:

- a) To manufacture matches.

- b) To store matches in excess of twenty-five (25) cases. Note: One case equals one matchman's gross of fourteen thousand four hundred (14,000) matches.

24. Organic Coatings: To perform organic coating operations utilizing more than one gallon of organic coating on any working day.

25. Ovens and Furnaces: To operate industrial processing ovens and furnaces operating at approximately atmospheric pressures and temperatures not exceeding 1400 degrees F which are heated with oil or gas fuel or which during operation contain flammable vapors from the material in the oven or catalytic combustion system.

26. Places of Assembly: To maintain, operate or use a place of assembly.

27. Service Stations and Repair Garages: To operate a service station or repair garage.

28. Welding and Cutting: To operate a welding and cutting business. A record of all locations where welding or cutting operations are performed shall be maintained and kept available for inspection by the permit holder.

- E. Consolidated Permits: When more than one permit is required for the same property or premises, a single permit may be issued listing all materials or operations covered. Revocation of a portion or portions of such consolidated permit, for specific hazardous materials or operations, shall not invalidate the remainder.
- F. Location of Permits: Permits shall be kept on property or premises covered by the permit or carried by the permit holder.
- G. Revocation of Permits: Permits may be suspended or revoked when it is determined there is a violation of a condition under which the permit was issued,

or there has been misrepresentation or falsification of material facts in connection with the permit application or a condition of the permit.

§55.6 Inspections

- A. Periodic: The Fire Prevention Code Inspector shall conduct periodic inspections for compliance with the provisions of the Fire Prevention Code. Such inspections may be made at any reasonable time.
- B. Refusal to Admit; Procedure: If entrance to make an inspection is refused or cannot be obtained, the Fire Prevention code Inspector may apply for a warrant to make an inspection to any court of competent jurisdiction.

§55.7 Violations

- A. Compliance with Applicable Laws: A person owning, operating, occupying or maintaining property or premises within the scope of the Fire Prevention Code or this Chapter shall comply with all the provisions of the Fire Prevention Code, this Chapter and all orders, notices, rules, regulations or determinations issued in connection therewith.
- B. Issuance of Violation Order: Whenever the Fire Prevention Code Inspector finds that there has been a violation of the Fire Prevention Code, this Chapter, or any rule or regulation adopted pursuant to this Chapter, a violation order shall be issued to the person or persons responsible.
- C. Violation Orders; Contents: Violation orders shall be in writing; shall identify the property or premises; shall specify the violation and remedial action to be taken; shall provide a reasonable time limit for compliance, and shall state the time within which an appeal may be taken.
- D. Service of Violation Orders: Violation orders may be served; by personal service; by mailing by registered or certified mail; or by posting a copy thereof in a conspicuous place on the premises, and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.
- E. Application to Court: In case the owner, lessor, occupant or the agent of any of them shall fail, neglect or refuse to remove, eliminate or abate the violation with the time specified in the violation order, a request to take appropriate legal action shall be made to Town Justice of the Town of Collins or the Town of Persia as may be appropriate for properties within their respective jurisdiction.

§55.8 Penalties

- A. Failure to Comply: Failure to comply with any provisions of the State Fire Prevention Code, this Chapter, rules or regulations adopted pursuant to this Chapter, or a violation order shall be deemed a violation and the violator shall be liable for a fine of not more than one thousand dollars (\$1,000.00) or imprisonment not to exceed fifteen (15) days, or both.

- B. Injunctive Relief: An action or proceeding in the name of the Village of Gowanda may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violate of any provision of the Fire Prevention Code, this Chapter, rule or regulation adopted pursuant to this Chapter, or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

§55.9 Records

The Fire Prevention Code Inspector shall keep official records of all permits, inspection reports, recommendations, complaints and violation orders.

§55.10 Removal of Dangerous Buildings and Structures*

- A. Public Nuisance: A building or structure or part thereof, which is an imminent danger to life and safety of the public as a result of a fire or explosion is hereby declared to be a public nuisance.
- B. Emergencies: Whenever the Fire Prevention Code Inspector finds a building or structure, or part thereof, to be an imminent danger to life and safety of the public as a result of a fire or explosion, the Fire Prevention Code Inspector may cause it to be demolished and removed or may cause work to be done in and about the building or structure as may be necessary to remove the danger.
- C. Vacating Premises: The Fire Prevention Code Inspector may require the occupants of any such building or structure, or part thereof, to vacate the premises forthwith. No person shall use or occupy such building or structure, or part thereof, until it is made safe. Except for the owner, no person shall enter premises which have been ordered vacated unless authorized to perform inspections, repairs or to demolish and remove such building or structure, or part thereof.
- D. Assessment of Costs and Expenses: All costs and expenses incurred by the Village of Gowanda in connection with any work done to remove the danger, or in connection with the demolition and removal of any such building or structure shall be assessed against the land on which such building or structure is located and a bill for such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained, then such bill shall be posted in a conspicuous place on the premises. Such assessment shall be, and constitute a lien upon such land. If the owner shall fail to pay such expenses within ten (10) days after the bill is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Fire Prevention Code Inspector may: file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying he property in connection with which the expenses were incurred, and the owner

*See also Chapter 33, Unsafe Buildings.

thereof, with the Assessor, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as is provided by law for the collection and enforcement of real property taxes in the Village of Gowanda.

§55.11 Review Board

- A. The appropriate regional Board of Review established pursuant to Part 440 of Title 19 NYCRR entitled "Administration and Enforcement of the Uniform Fire Prevention and Building Code" has authority to vary or modify in whole or in part, any provision or requirement of the Uniform Code in cases where strict compliance with such provision or requirement would entail practical difficulties or unnecessary hardship. Any person aggrieved by any decision of the Fire Prevention Code Inspector may petition the regional Board of Review as provided in 440.5 of Title 19 NYCRR.
- B. The Fire Prevention Code Officer shall file in his or her office a copy of the decision of the Board of Review.

HISTORICAL NOTE

This Chapter was enacted by Local Law #1, the Year 1979, duly passed by the Village Board on June 5, 1979, to take effect immediately. It was revised in the 1995 Re-codification to conform to the provisions of the New York State Uniform Fire Prevention and Building Code which became effective January 1, 1984.

Cross-References:

Uniform Code Enforcement, Chapter 26
Zoning: Chapter 30

References:

New York State Uniform Fire Prevention and Building Code Act. Exec L Art 18 (Added L. 1981, Ch. 707).

Effective January 1, 1984, the State Uniform Code is applicable to all municipalities in the State of New York. Exec L § 377(l). Higher standards may be enacted by a local government. However, the SFPBCC must be notified within 30 days of adoption and they may adopt such standards in whole or in part, limit the term or duration, impose conditions or terminate them at any time. Exec L §370. Municipalities may adopt building regulations for which the Uniform Code does not provide. Exec L §369(3).

Interpretation. Requests for interpretations shall be from a permit applicant or a code enforcement official. Such requests shall state the pertinent code section and a brief description of the building (construction type, number of stories, occupancy, fire area, fire limits, etc.). All requests should be sent to: Commissioner, Division of Housing and Community Renewal, ATTN: Housing and Building Codes Bureau, One Fordham Plaza, Bronx, New York 10456.

Plan Review. In addition to providing such interpretation service, the Housing and Building Code Bureau will review plans and specifications submitted by code enforcement officials. The Bureau will cite code sections which are not complied with. This review will be considered advisory only. All requests should be sent to the above address.

Rules and regulations for the administration and enforcement of the Uniform Fire Prevention and Building Code. See Parts 433, 440, 441, 442, 443 and 444 of the Title 19 NYCRR.

Board of Review. 19 NYCRR Part 440.

Financial assistance. 19 NYCRR Part 433.

Minimum standards for administration and enforcement. 19 NYCRR Part 444.

Search warrant.

Admission by tenant of city inspector, not required. *People v Sybil Holding Corp.*, 64 Misc2d 293; contra, *People v Rosenthal*, 59 Misc2d 565.

Admission without objection, not required. *People v Cacciola*, 64 Misc2d 670.

Evidence inadmissible if obtained without, and without permission. *People v Laverne*, 14 NY2d 304. Grounds for obtaining, not same high standards as in criminal matters. *Tn of Smithtown v Serby*, 64 Misc2d 734, 736.

Necessity of.

Where building inspector notified owners of intention to inspect old barn, "failure to reply or object to such inspection constituted their tacit consent thereto." *Vil of Brockport v Klahn*, 47 AD2d 577 (2).

Refusal to admit without, constitutional right. *Camera v Municipal Court*, 387 US 523; *People v Laverne*, 14 NY2d 304; *Sokolov v Vil of Freeport*, 52 NY2d 341.

CHAPTER 60

TRAFFIC AND VEHICLES

ARTICLE I

GENERAL PROVISIONS

§60.1 Definitions

- A. The words and phrases used in the Chapter shall for the purpose of this Chapter have the meanings respectively ascribed to them by Article I of the Vehicle and Traffic Law of the State of New York.
- B. The following words and phrases which are not defined by Article I of the Vehicle and Traffic Law of the State of New York shall have the meanings respectively ascribed to them in this Section for purposes of the traffic ordinances of this Village.
1. "Curb line" shall mean the prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.
 2. "Holidays" shall mean New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas.
 3. "Official time standard." Whenever certain hours are herein named or on traffic control devices they shall mean the time standard which is in current use in this State.
 4. "Public parking lot" shall mean a plot or parcel of land or building owned and/or leased by this Village, not including highways, upon or within which the parking of vehicles is regulated by signs and/or parking meters. [¶ 4 defining parking meter zone deleted and ¶ 5 renumbered ¶ 4. LL #2, 83; 8/23/83]

§60.2 Turning Movements

- A. Only a right hand turn is authorized by any vehicle as follows:
1. Vehicles proceeding north on South Water Street are authorized a right turn only at the intersection of South Water Street with Jamestown and Main Streets. Between the hours of 10:00 pm and 6:00 am while the flashing red light is operating, the sign that indicates Right Turn Only will be strictly enforced.

§60.3 Authority to Install Traffic Control Devices

The Superintendent of Public Works shall install and maintain traffic control devices when and as required under the provisions of this Chapter to make effective the

provisions of said Chapter and may install and maintain such additional traffic control devices as he may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York subject to the provisions of Sections 1682 and 1684 of that Law.

§60.4 One-Way Roadways

North Water Street is designated a one-way roadway in a northerly direction starting at the intersection of East Main and proceeding in a northerly direction for a distance of one hundred forty-five (145) feet.

ARTICLE II

STOP AND YIELD INTERSECTIONS

§60.21 Through Highways

- A. Aldrich Street is hereby designated as a through highway between Route 438 and North Water Street and between North Water Street and West Main Street, and stop signs shall be erected on the following entrances thereto:
 - 1. Allen Street from the east.
 - 2. Caroline Street from the east.
 - 3. College Street from the east.
 - 4. Memorial Drive from the west.
 - 5. St. John Street from the east.

- B. Beech Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
 - 1. High Street from the southwest.
 - 2. Moench Street from the south.
 - 3. Miller Street from the north and south.

- C. Broadway Road is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
 - 1. High Street from the northeast.
 - 2. Fredrick Street from the east.
 - 3. Beech Street from the east.
 - 4. Hill Street from the west.
 - 5. Miller Street from the east and west.

- D. Buffalo Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
 - 1. Mechanic Street from the east.
 - 2. Foundry Street from the west.

3. Perry Street from the east.
 4. Union Street from the west.
 5. Bader Avenue from the west.
 6. Caroline Road from the west.
 7. A flashing signal shall be installed at the intersection of Allen Street and Sandhill Road with Buffalo Street. Flashing red indications displayed east and west facing Sandhill Road and Allen Street respectively. Flashing yellow indications displayed north and south on Buffalo Street.
- E. North Chapel is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
1. St. John's Street from the west.
 2. School Street from the east.
 3. College Street from the west.
- F. South Chapel Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
1. Walnut Street from the east.
 2. Orchard Place from the west.
 3. Maple Avenue from the west.
- G. College Street is hereby designated as a through highway and a stop sign shall be erected on the following entrance thereto:
1. Clay Street from the south.
- H. Commercial Street is hereby designated as a through highway and stop signs shall be erected in the following entrance thereto:
1. Chestnut Street from the west.
 2. Torrance Place from the west.
- I. Erie Avenue is hereby designated as a through highway and a stop sign shall be erected in the following entrance thereto:
1. Park Street from the northeast.
- J. High Street is hereby designated as a through highway and a stop sign shall be erected on the following entrance thereto:
1. Miller Street from the north.
- K. Hill Street is hereby designated as a through highway between the intersections of Jamestown Street and Broadway Road and stop signs shall be erected on the following entrances thereto:
1. Townsend Avenue from the north.
 2. Crestwood Drive from the south.
- L. Jamestown Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
1. Hill Street from the northwest and southeast.

2. South Chapel Street from the north.
 3. Torrance Place from the southeast.
 4. Chestnut Street from the east.
 5. Walnut Street from the east and west.
- M. Johnson Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
1. Orchard Place from the east.
 2. Maple Avenue from the east.
- N. East Main Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
1. Erie Avenue from the southeast.
 2. Mechanic Street from the southwest.
 3. A yield sign shall be erected on the following entrance thereto: Perry Street from the west.
- O. West Main Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
1. Johnson Street from the south.
 2. Aldrich Street from the north.
 3. North Chapel Street from the north.
 4. South Chapel Street from the south.
 5. Center Street from the north.
- P. Palmer Street is hereby designated as a through highway and stop signs shall be erected on the following entrances thereto:
1. Townsend Avenue from the south.
 2. Broadway Road from the south.
- Q. St. John's Street is hereby designated as a through highway and a stop sign shall be erected on the following entrance thereto:
1. Clay Street from the north.
- R. School Street is hereby designated as a through highway and a stop sign shall be erected on the following entrance thereto:
1. Center Street from the south.
- S. Seneca Street is hereby designated as a through highway between the intersections of Caroline Road and Union Street and a stop sign shall be erected on the following entrance thereto:
1. Bader Avenue from the east.
- T. Torrance Place is hereby designated as a through highway and a stop sign shall be erected on the following entrance thereto:
1. Industrial Street from the south.

- U. Townsend Avenue is hereby designated as a through highway and a stop sign shall be erected on the following entrance thereto:
 - 1. Miller Street from the east.
- V. South Water Street is hereby designated as a through highway and a stop sign shall be erected on the following entrance thereto:
 - 1. Walnut Street from the west.

§60.22 Stop Intersections

- A. The intersection of Allen Street with Seneca Street is hereby designated as a stop intersection. Stop signs shall be erected on all three (3) corners of said intersection.
- B. The intersection of Caroline Road and Seneca Street is hereby designated as a stop intersection. Stop signs shall be erected on all four (4) corners.
- C. The intersection of Aldrich Street with North Water Street is hereby designated as a stop intersection and stop signs shall be erected on all four (4) corners of said intersections.

§60.23 Yield Intersections

- A. The intersection of West Main Street with Jamestown Street is hereby designated as a yield intersection and a yield sign shall be erected on the following intersection entrance thereto:
 - 1. West Main Street from the southwest.
- B. The intersection of Perry Street with East Main Street is hereby designated as a yield intersection. A yield sign shall be erected on the following intersection entrance thereto:
 - 1. Perry Street from the west-north-west.

ARTICLE II

SPEED REGULATIONS

§60.31 Maximum Speed Limits

Thirty (30) miles per hour is hereby established as the maximum speed limit at which vehicles may proceed on or along highways within the village except on highways as follows:

- A. Thirty-five (35) miles per hour is hereby established as the maximum speed limit at which vehicles may proceed on or along highways within this village on or along highways as follows:
1. Sandhill Road
 2. Buffalo Street
 3. Aldrich Street between northerly village line and its intersection with North Water Street
 4. West Main Street
 5. Jamestown Street

§60.32 Maximum School Speed Limits

Maximum school speed limits at which vehicles may proceed on or along highways within this village are hereby established as follows:

- A. Fifteen (5) miles per hour on School Street adjacent to the Gowanda Elementary School between its intersections with North Water Street and North Chapel Street.
- B. Fifteen miles per hour on Aldrich Street between the intersections of College Street and St. John's Street playground adjacent to said street.
- C. Fifteen (15) miles per hour on East Main Street adjacent to St. Joseph's School between its intersections with Erie Avenue and Perry Street.
- D. Fifteen miles per hour on South Chapel Street and Walnut Street within 300 feet of the Lutheran Church School this is located at the intersection of Walnut and South Chapel Streets. [Added LL #3, 95, 7/11/95]
- E. Fifteen miles per hour on North Water Street within 300 feet of the Gowanda Elementary School. [Added LL #4, 1995]
- F. Fifteen miles per hour on North Water Street from North Chapel Street to Aldrich Street, alongside Hills Field. [Adopted May 25, 2004]

ARTICLE III

PARKING, STANDING AND STOPPING

§60.41 Application of Article

The provisions of this Article shall apply except when it is necessary to stop a vehicle to avoid contact with other traffic or in compliance with the directions of a police officer or official traffic control device.

§60.42 All-Night Parking

The parking of vehicles is hereby prohibited on all highways within this Village between the hours as follows:

- A. Business District Hours: No parking is permitted in this area between the hours of 4:00 am and 7:00 am from November 1st to April 1st. Business District as follows:
 - 1. Buffalo Street – north boundary – Perry Street to south boundary of East Main Street.
 - 2. East Main Street – northeast boundary – Erie Street to south boundary of Buffalo Street.
 - 3. Jamestown Street – southeast boundary – Walnut Street to northeast boundary of West Main Street.
 - 4. South Water Street – southeast boundary – Walnut Street to northwest boundary of Jamestown Street
 - 5. West Main Street – east boundary – Jamestown Street to west boundary of Center Street.

- B. Residential District Hours: No parking is permitted in this area between the hours of 12:00 midnight and 7:00 am from November 1st to April 1st. The residential district is classified as all highways within this Village not specified in subdivision (A) above.

§60.43 Parking Prohibited in Designated Locations

The parking of vehicles is hereby prohibited or restricted in the following locations as specified:

- A. No parking permitted on either side of the following highways within the Village:
 - 1. Aldrich Street (to include the Aldrich Street Extension)
 - 2. Broadway Road
 - 3. Commercial Street
 - 4. High Street
 - 5. Hill Street
 - 6. Miller Street
 - 7. Palmer Street
 - 8. Sandhill Road
 - 9. Torrance Place
 - 10. Union Street
 - 11. Cemetery Road

- B. No parking on the side indicated on the following highways within this Village:

1. Beech Street – north – east side
 2. Buffalo Street – west side
 3. Chapel Street – northeast side
 4. Chapel Street – southeast side
 5. Chestnut Street – north side
 6. Clay Street (Carpenter Terrace) – north and south sides
 7. College Street – north side
 8. Jamestown Street – northeast side (except in Business District)
 9. Johnson Street – east side
 10. Main Street – east – southeast side (except in Business District)
 11. Main Street – west – north and south sides (except in Business District)
 12. Memorial Drive – north and east sides
 13. Perry Street – north – northeast side
 14. St. John's Street – north side
 15. School Street – south side
 16. Water Street – north and south side between the north curb line in North Chapel Street and the east curb line of Aldrich Street
 17. Water Street – south and northeast side
 18. Walnut Street – south side
 19. Park Street – north and east side (Local Law #3, 1999)
- C. No parking is permitted on any public sidewalk or within the space lying between such sidewalk and the nearest curb or gutter of any adjacent highway within the residential district of the Village as such district is defined or classified in subdivision B of §60.42, above. [Subd. C added LL #2, 87]

§60.44 Standing Prohibited in Designated Areas

Standing is prohibited in the same designated areas as directed in subdivisions A, B and C of §60.43, above [Amd. LL #2, 87]

§60.45 Stopping Prohibited in Designated Areas

Stopping is prohibited in the same designated areas as directed in subdivisions A, B and C of §50.43, above [Amd. LL #2, 87]

§60.46 Parking Time Limited in Designated Locations

- A. Except on Sunday and holidays, the parking of vehicles is hereby prohibited on Mondays through Thursdays and on Saturdays of each week for any continuous period of longer than two (2) hours between 9:00 am and 6:00 pm at the following described locations:
1. Buffalo Street – both sides between its intersection with Mechanic Street and its intersection with East Main Street.
 2. East Main Street – both sides between its intersection with Erie Avenue and its intersection with Buffalo Street.

3. South Water Street – southwest side between its intersections with Jamestown Street to a point of one hundred fifty (150) feet northwest of the northerly curb line of Walnut Street.
 4. West Main Street – both sides between its intersection with Jamestown Street and its intersection with North and South Chapel Streets.
 5. Center Street – west side from its intersection with West Main Street to a point one hundred twenty-five (125) feet northerly as measured along the westerly curb of said Center Street from its juncture with the northerly* line of West Main Street.
- B. The parking of vehicles is prohibited on Fridays, except holidays, of each week for any continuous period of longer than two (2) hours between 9:00 am and 9:00 pm at each of the locations described in subdivision A of this section.
- C. Except on Sundays and holidays, parking of vehicles is hereby prohibited on both sides of Jamestown Street between its intersection with West Main Street and its intersection with Walnut Street for any continuous period of longer than one (1) hour between 9:00 am and 6:00 pm on Mondays through Thursdays and on Saturdays of each week and between the hours of 9:00 am and 9:00 pm on Fridays of each week. [§60.56 added, LL #2, 83; 7/19/83]

[Article V entitled "Parking Meters" deleted, LL #2, 83; 7/19/83]

ARTICLE IV

PARKING, STANDING AND STOPPING

§60.47(a) Parking on Sidewalk

The terms "park" and/or "parking" shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The term "sidewalk" shall be interpreted to mean: That portion of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines, intended for the use of pedestrians.

Fines imposed for this infraction is outlined in Traffic and Vehicle Section 60.100 of the Municipal Code for the Village of Gowanda.

*So in original.

§60.47(b) Parking on Crosswalk

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The term “crosswalk” shall be interpreted to mean:

- A. That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway between the curbs or, in the absence of curbs, between the edges of the traversable roadway.
- B. Any portion of a roadway at an intersection, or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Fines imposed for this infraction is outlined in Traffic and Vehicle Section 60.100 of the Municipal Code for the Village of Gowanda.

§60.47(c) Parking on Roadway

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The term “roadway” shall be interpreted to mean: That portion of a highway improved, designed, marked ordinarily used for vehicular travel, exclusive of the shoulder and slope. In the event of a highway includes two or more separate roadways, the term “roadway” as used herein shall refer to any such roadway separately but not to all roadways collectively.

Fines imposed for this infraction is outlined in Traffic and Vehicle Section 60.100 of the Municipal Code for the Village of Gowanda.

§60.47(d) Parking in Loading Zone

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The term “loading zone” shall be interpreted to mean: A stop where carriers can be loaded or unloaded.

Fines imposed for this infraction is outlined in Traffic and Vehicle Section 60.100 of the Municipal Code for the Village of Gowanda.

§60.47(e) Parking in Handicapped Parking

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The term “Handicapped Parking” shall be interpreted to mean: Parking spaces for the handicapped shall be those parking spaces accorded to a holder of a handicapped parking permit and designated parking space for handicapped parking.

Fines imposed for this infraction is outline in Traffic and Vehicle Section 60.100 of the Municipal Code for the Village of Gowanda. Said fine for misuse of the Handicapped Parking is fifty dollars (\$50.00).

§60.47(f) Parking Less than 15 Feet from Hydrant

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

No vehicle is allowed to park or impede the access to a fire hydrant that is fifteen feet (15') or less.

Fines imposed for this infraction is outlined in Traffic and Vehicle Section 60.100 of the Municipal Code for the Village of Gowanda.

§60.47(g) Park or Parked in Intersection

The terms “park” and/or “parking” shall be interpreted to mean: A sanding of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The term “intersection” shall be interpreted to mean:

- A. The area embraced within the prolongation of the lateral club lines or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining to any other angle may come in conflict.
- B. Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Fines imposed for this infraction is outline in Traffic and Vehicle Section 60.100 of the Municipal Code for the Village of Gowanda.

§60.47(h) Parked – Facing Traffic

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The terms “facing traffic” shall be interpreted to mean: Any vehicle that is parked in a direction that is against the flow of traffic.

Fines imposed for this infraction is outline in Traffic and Vehicle Section 60.100 or the Municipal Code for the Village of Gowanda.

§60.47(i) Parked in Driveway

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, wheher occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The term “driveway” shall be interpreted to mean: Every entrance or exit used by vehicular traffic to or from lands or buildings abutting a highway.

Fines imposed for this infraction is outline in Traffic and Vehicle Section 60.100 or the Municipal Code for the Village of Gowanda.

§60.47(j) Parked in Fire Zone

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The term “fire zone” shall be interpreted to mean: Any area that is posted or marked Fire Zone for the purpose of leaving an area for the Fire and Emergency Service without impeding their operation.

Fines imposed for this infraction is outline in Traffic and Vehicle Section 60.100 or the Municipal Code for the Village of Gowanda.

§60.47(k) Parking with No/Expired Inspection

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The terms “No Inspection and/or Expired Inspection” shall be interpreted to mean: Any vehicle without an inspection sticker which indicates that said vehicle was legally inspected by the orders and laws of the State of New York Commissioner of Motor

Vehicles. Any vehicle found to be illegal (without sticker or with a sticker outdated) shall be deemed in violation.

Fines imposed for this infraction is outline in Traffic and Vehicle Section 60.100 or the Municipal Code for the Village of Gowanda.

§60.47(l) Parking with No/Expired Registration

The terms “park” and/or “parking” shall be interpreted to mean: A standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

The terms “No Registration and/or Expired Registration” shall be interpreted to mean: No motor vehicle shall be operated, driven or parked on a public highway without first being registered in accordance with the provisions of the New York State Vehicle and Traffic Law Section 401.

Fines imposed for this infraction is outline in Traffic and Vehicle Section 60.100 or the Municipal Code for the Village of Gowanda.

ARTICLE V

DELEGATION OF POWERS

§60.61 Authority of the Chief of Police to Regulate Traffic

Pursuant to the provisions of subdivision (A) of Section 1603 of the Vehicle and Traffic Law, power is hereby delegated to the Chief of Police of the Village of Gowanda to exercise by official order, rule or regulation the following powers granted to the legislative body of this Village in Article 39 of the Vehicle and Traffic Law subject, however, to the limitations imposed by Sections 1645 and 1684 of the Vehicle and Traffic Law:

- A. To designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designate any intersection as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection.
- B. To prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.
- C. To regular the crossing of any roadway by pedestrians.
- D. To designate any highway or any separate roadway thereof for one-way traffic.

- E. To exclude trucks, commercial vehicles, tractors, tractor-trailer combinations and trucks in excess of any designated weight from designated highways.
- F. Prohibit, restrict or limit the stopping, standing or parking of vehicles.
- G. To determine those highways or portions of highway which shall be marked to indicate where overtaking and passing or driving to the left of such markings would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications established by the Department of Transportation.
- H. To designate safety zones.
- I. To provide for policing and supervision of established timed parking zones, provide for the enforcement of time limits, and fix and require the payment of fees applicable to violation thereof. Such fees shall be paid to the Village and credited to its general fund unless a different disposition shall be prescribed by supervening law. [¶ 9 amended LL #2, 83; 7/19/83]
- J. To establish a system of truck routes upon which all trucks, tractors and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system. Such exclusion shall not be construed to prevent the delivery or pick-up of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such village.
- K. To regulate traffic by means of traffic-control devices.
- L. To license, regulate and prohibit processions, assemblages or parades. Whenever such procession, assemblage or parade authorized by a local authority will block the movement of traffic on a state highway maintained by the state, or on a highway that connects two (2) state highways maintained by the state to make a through route, for a period in excess of ten (10) minutes, such authority must, prior to such blocking, provide and designate with conspicuous signs a detour adequate to prevent unreasonable delay in the movement of traffic on said highway maintained by the state.
- M. To prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks.
- N. To provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited and for the payment of reasonable charges for such removal and storage by the owner or operator of any vehicle.

- O. To adopt such additional reasonable orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of the state.
 1. To prohibit, restrict, or limit the stopping, standing or parking of vehicles upon property owned or leased by such Village.
 2. The Chief of Police shall cause to be determined for all bridges and elevated structures under his jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. At bridges or structures or insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of the Vehicle and Traffic Law, the Chief of Police shall cause signs to be erected to inform persons of safe capacity.
 3. The Chief of Police shall cause overhead signs to be erected to inform persons of the legal overhead clearance for all bridges and structures on highways under its jurisdiction. The legal limit shall be one foot less than the measure clearance. The measured clearance shall be the minimum height of the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen (14) feet for more of measured clearance, no such signs shall be required.

ARTICLE VI

TRAFFIC CONTROL SIGNALS

The NYS DOT has established by order traffic control signals in the Village of Gowanda as follows:

§60.71 Traffic Control Signals

- A. A pre-timed traffic control signal at the intersection of the following streets: Jamestown Street with West Main Street and North Water Street, South Water Street and East Main Street.
 1. Types of signals:
 - a. Jamestown Street – Two (2) signal heads, each three (3) section, one (1) face, with standard red, amber and green from top to bottom respectively.
 - b. West Main Street – Two (2) signal heads, each three (3) section, one (1) face, with standard red, amber and green from top to bottom respectively.
 - c. North Water Street – No signal – one way street north on street moving away from intersection.
 - d. Main Street – Two (2) signal heads, each three (3) section one (1) face, with standard, red, amber and green from top to bottom respectively.
 - e. South Water Street – Two (2) signal heads, one (1) face, with a standard red and amber top and middle sections respectively. Bottom section has a green arrow for a right turn only.

2. No pedestrian push buttons.
3. Sequence of operation – standing at light on:
 - a. East Main Street facing southwest: When green light is received, left lane may make a left turn on South Water Street on proceed south, southwest onto Jamestown Street. Right lane may proceed west, southwest onto West Main Street or turn right; going northwest on North Water Street.
 - 1) South Water Street receives green light at same time as East Main Street. However, South Water Street traffic may only make a right turn to go northeast up East Main Street.
 - b. Jamestown Street facing northeast: Green light is received after East Main Street and South Water Street have received their green then red lights.
 - c. West Main Street facing east, northeast: Green light is received after Jamestown Street has received its green and red lights.
4. Between the hours of 10:00 pm and 6:00 am the following pre-set conditions exist:
 - a. East Main Street – blinking amber light.
 - b. South Water Street – blinking red light.
 - c. Jamestown Street – blinking amber light.
 - d. West Main Street – blinking red light.
- B. A pre-timed traffic control signal at the intersection of the following streets: Buffalo Street with Allen Street and Sandhill Road (Route 62).
 1. Type of signal: A one-section, four (4) facing flashing blinker light.
 2. No pedestrian push-buttons.
 3. Sequence of sight:
 - a. Buffalo Street facing north receives blinking amber light.
 - b. Allen Street facing east receives a blinking red light.
 - c. Buffalo Street facing south receives a blinking red light.
 - d. Sandhill Road facing west receives a blinking red light.

ARTICLE VII

MISCELLANEOUS

§60.81 Removal and Storage of Vehicles

- A. Authority to impound vehicles.
 1. When any vehicle is parked or abandoned on any highway within this Village during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed as directed by the Department of Public Works.
 2. When any vehicle is found unattended on any highway within this Village where said vehicle constitutes an obstruction to traffic, said vehicle may be removed as directed by the Department of Public Works.

3. When any vehicle is parked or abandoned on any highway within this Village where stopping, standing or parking is prohibited, said vehicle may be removed as directed by the Department of Public Works.
- B. Storage and charges: After removal of any vehicle as provided in this Article, the towing agency summoned by the Department of Public Works may store such vehicle in a suitable place at the expense of the owner. Such owner, or person in charge of the vehicle, may redeem the same upon payment to the towing agency of the amount of all expenses actually and necessarily incurred in effecting such removal. Removal charges shall not exceed forty dollars (\$40.00) and storage charges shall not exceed three dollars (\$3.00) per day or fraction thereof.
 - C. Notice of removal: The Department of Public Works shall, without delay, report the removal and the disposition of any vehicle removed as provided in this Article to the Gowanda Police Department and it shall be the duty of such Police Department to ascertain to the extent possible the owner of such vehicle or person having same in charge and notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem same.

§60.82 Truck Exclusions

- A. All trucks, tractors and tractor-trailer combinations in excess of five (5) tons are excluded from traveling on all highways within this Village except as follows:
 1. Aldrich Street (to include the Aldrich Street extension)
 2. Broadway Road
 3. Buffalo Street
 4. Commercial Street
 5. Jamestown Street
 6. Main Street (West)
 7. Sandhill Road
- B. Trucks over three (3) tons excluded: Trucks in excess of three (3) tones are hereby excluded from the following highways within this Village:
 1. Hill Street
 2. Union Street
 3. Local delivery excluded.

The regulations established in this Article shall not be construed to prevent the delivery or pick-up of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. However, load limit exclusions must be strictly adhered to.

§60.83 Application of Pavement Markings

Pavement markings in accordance with the standards and specifications established by the Department of Transportation shall be applied on the following highways or portions of highways:

- A. Aldrich Street (to include at the Aldrich Street extension)
- B. Buffalo Street
- C. Jamestown Street
- D. Sandhill Road
- E. West Main Street

ARTICLE VIII

PENALTIES

§60.100 Penalties

- A. Traffic Infraction:* Any person convicted of a traffic infraction for a violation of this Chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall be punished by a fine of not more than ten dollars (\$10.00) for a first conviction and by a fine of not more than twenty-five dollars (\$25.00) for a second conviction within one year and by a fine of not more than fifty dollars (\$50.00) for a third conviction within one year.
- B. Civil Penalty:
 - 1. Timed parking violations: The owner or operator of any vehicle who shall violate any of the provisions of Article IV, §60.46 and to which vehicle a notice of such violation has been attached will pay to the Village Clerk's Office of the Village of Gowanda a civil penalty in the sum of five dollars (\$5.00) for and in full satisfaction of such violation if paid within five (5) business days of the violation. After five (5) business days said penalty will be doubled to ten dollars (\$10.00).
 - 2. Parking violations: Any person who shall receive a notice of violation for any of the following parking violations, to wit: parking on a sidewalk, within twenty (20) feet of a crosswalk, within fifteen (15) feet of a fire hydrant, in front of a driveway, with left side to curb or where parking or standing is prohibited, double parking or hindering snow removal from November 1 to April 1 or parking over twenty-four (24) hours will pay to the Village Clerk's Office of the Village of Gowanda a civil penalty in the sum of five dollars (\$5.00) for and in full satisfaction of such violation. After five (5) business days said penalty will be doubled to ten dollars (\$10.00). [Subd. B amd. LL #2, 83; 7/19/83]

*Actually this applies only to parking meter violations, since the V & T L prescribes the penalties for other violations.

COMMENTARY

The following comments are made for the purpose of giving assistance in drafting future changes in the Traffic and Vehicle Law. Reference is also made to certain sections of the Vehicle and Traffic Law which may be useful in prosecuting violations of this Chapter. All references to sections hereinafter mentioned refer to the Vehicle and Traffic Law unless otherwise specified.

§1600 provides a municipality from enacting and duplicating any provision of the Vehicle and Traffic Law except where specifically authorized. See also §1604.

Speed limits on highways in cities and village are regulated by §1643. A state speed limit on all state highways has been established at 55 mph. A city or village may not impose a speed limit of less than 30 mph except on designated highways which may not be less than 25 mph. A further exception permits cities and villages to enact school speed limits of not less than 15 mph and not more than 300 feet in either direction from the school building line. Cities and villages may enact traffic regulations at shopping centers, §1640-a; and also on private roads open to public motor vehicle traffic, §1641.

There are additional restrictions on enacting speed limits which apply to cities and villages. Speed limits on state controlled access highways may only be imposed by the New York State Department of Transportation, §1620. Likewise, the Department of Transportation may impose other traffic regulations on state highways maintained by the state, §1621 and §1624. Approval in writing must be obtained from the Department of Transportation before any local law, ordinance, rule or regulation affecting traffic on any state highway maintained by the state can be effective, §1684. Six (6) certified copies specifying the date of adoption must be furnished to the Department of Transportation.

It is suggested that a draft of the proposed regulations be submitted before formal action is taken by the local legislative body so any technicalities may be worked out and agreement reached.

The power to enact traffic regulations may be delegated to any official, board or agency of the city or village designated pursuant to law, §1603. See also Highway Law §46 for villages, which states that the State Department of Transportation shall have such jurisdiction over state maintained highways as the Commissioner of Transportation shall determine.

In accordance with §1602, any police officer, or other person empowered to regulate traffic, may, to the extent authorized by local law, ordinance, order, rule, regulation or administrative code provision, direct traffic as conditions may require notwithstanding the provisions set forth in the Vehicle and Traffic Law or local laws, ordinances, etc. For example, there may be a provision authorizing the Police Chief to prohibit parking on certain streets during snow emergencies.

Any police officer has authority to move a vehicle found unattended and obstructing traffic or left in any place where standing, stopping or parking is prohibited and is authorized to provide for the removal of such vehicle to garage, automobile pound, or other place of safety. Before the vehicle is released, the owner may be required to pay reasonable cost of removal and storage, §1204.

Most traffic restrictions cannot be effective until required signs or markings are placed in accordance with §1683. See NYS Manual of Uniform Traffic Control Devices. However, there is a presumption whenever official traffic-control devices are properly erected that they have been so erected by lawful authority and comply with the requirements of the V & T Law. V & T L §1110. *People v. Bradfute*, 49 Misc 2d 1092, NYS2d 192.

In most instances, traffic violations should be charged under the pertinent sections of the Vehicle and Traffic Law. For example, speed restrictions, §1180(d); standing, stopping and parking restrictions, pursuant to §1800, §1801 and Subdivision (f) of §1180. The disposition of fines is prescribed in §1803.

For use in drafting new provisions in the Traffic and Vehicle Chapter, we recommend using the Model Traffic Ordinance which can be obtained free of charge from the Traffic and Safety Division of the New York State Department of Transportation, 1220 Washington Avenue, Albany, New York, 12226.

CHAPTER 65

PUBLIC SAFETY

ARTICLE I

PUBLIC CONDUCT

§65.1 Riotous Conduct

No person shall make any disturbance or indulge in any fight or riotous demonstrations in or near any public or private street or place to the annoyance of any citizen within the Village of Gowanda.

§65.2 Disturbances in Places of Public Assembly

No person shall make any disturbance or indulge in any improper conduct in any church, theatre, public hall or at any public meeting or place of public assembly within the Village of Gowanda.

§65.3 Throwing of Stones or Missiles

No person shall throw or cast any stones or other missile or thing in, from, or to any street, lane, alley, park, public place or enclosed grounds within the Village of Gowanda.

§65.4 Discharge of Guns or Weapons

No person shall discharge any spring or air gun, pistol, fire arm or other weapon of any kind within the Village of Gowanda.

§65.5 Public Intoxication

No person shall appear in a public place under the influence of alcohol, narcotics or other drug to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity.

§65.6 Soliciting Alms

No person shall publicly solicit alms or beg within the Village of Gowanda.

§65.7 Injuring Village Property

No person shall willfully interfere with or injure any public or private structure, street, sign, lamp, lamp post or any property belonging to the Village of Gowanda.

§65.8 Sliding on Sidewalks

No person shall drive, skate or slide over any sidewalk within the Village in such a manner as to hinder or endanger pedestrians.

§65.9 Posting Signs

No person shall post, paste or nail upon any electric light, telegraph or telephone pole, shade tree, post, pole or any village property a sign or bill of any description.

§65.10 Spitting

No person shall spit or otherwise expectorate upon the sidewalk or crosswalk of any public street, avenue, park, public square or place in the Village of Gowanda, or upon the floor of any public building.

ARTICLE II

OPEN BEVERAGE CONTAINERS

§65.21 Open Containers of Alcoholic Beverages Prohibited

Except as hereinafter otherwise provided, no person shall have in his possession any open or unsealed bottle, carton, can or other container containing any liquor, beer, wine or any other beverage containing alcohol while such person is in or on any public highway, street, sidewalk, park, parking area or other public place in the Village of Gowanda with the intent to consume such beverage while in such public place or to furnish the same to any other person for such consumption.

§65.22 Exceptions

The foregoing prohibition shall not apply to person over the age of 21 years while lawfully in attendance at a fair, picnic or other community gathering for which special permission has been granted by the Village provided that such special permission expressly includes authorization for the possession and consumption of such alcoholic beverages at such fair, picnic or other community gathering nor shall such prohibition apply to consumption or possession of alcoholic beverages in violation of Section 1227 of the Vehicle and Traffic Law of the State of New York. [New Art. II added LL #3, 87, replacing former Art. II pertaining to same subject]

ARTICLE III

NOISE

§65.31 Prohibition of Certain Noises

The following acts are declared to be a violation of this Article, but said enumeration shall not be deemed to be exclusive, namely:

- A. Unnecessary noises generally: To make or cause to be made any unreasonably loud, disturbing, unnecessary or unusual noise which annoys, injures or endangers the comfort, repose, health or safety of others, or to make or cause to be made, whether in the operating of any machine, automobile, or the exercise of any trade or calling or otherwise, any noise which annoys, injures or endangers the comfort, repose, health or safety of others, unless the making of the same be necessary for the protection or preservation of property or of the health, safety, life or limb of some person.
- B. Animal or bird noise: To keep in any building, kennel or upon any premises, of any animal or bird which, by frequent or long continued noise, barking or crowing, should disturb the comfort, repose, health or safety of others.
- C. Vehicle noise: The use of any automobile, motorcycle or any vehicle so out of repair, so loaded, or in such a manner as to create loud and unnecessary screeching, squealing, rattling, grating, grinding or other noise so as to annoy, injure, or endanger the comfort, repose, health or safety of others.
- D. Instrument noise: The playing of any radio, phonograph, television or any sound producing or musical instrument at any time in such a manner or with such volume as to annoy, injure, or endanger the comfort, repose, health or safety of others.
- E. Yelling or shouting noise: Yelling, shouting, hooting or signing at any time or place so as to annoy or disturb the quiet, comfort, sleep or repose of persons in any office, factory, school or any dwelling, or any type of residence, or of any person in the vicinity.

§65.32 Exceptions

Nothing contained in this Article shall be construed to prevent the production of music in connection with any military, civic, or authorized parade, funeral procession or religious ceremony; or to prevent any musical performance conducted under consent of municipal authority.

The provisions of this Article shall not apply to police officers and firemen while in the discharge of duty.

§65.33 Authority to Suspend Provisions

The Mayor, by and with the consent of the majority of the Village Board may authorize the suspension of any part of this Article in connection with any holiday celebration or upon any occasion of special public interest, for such time and upon such condition as shall be prescribed by him.

ARTICLE IV

FIRE SAFETY

§65.41 False Alarm

No person shall give or cause to be given any false alarm of fire in any manner whatsoever within the Village of Gowanda.

§65.42 Injuring Hose

No person shall injure or interfere in any manner with any hose or other apparatus belonging to the Fire Department of the Village of Gowanda, nor shall any person injure any building or part thereof where such apparatus is kept.

§65.43 Obstructing Firemen

No person shall obstruct the way of the members of the Fire Department with their apparatus of all kinds when on duty going to a fire on any public street of the Village of Gowanda.

§65.44 Obstruction Near Hydrant

No person shall place any lumber, stone or other obstruction nearer than ten (10) feet to any hydrant within the Village.

§65.45 Interfering with Fire Chief or His Assistants

No person shall, in any way, interfere with the Chief of the Fire Department or his assistants in the placing of fire apparatus or any other proper measure he may desire to carry out for the purpose of controlling a fire.

ARTICLE V

FIREWORK PERMITS

§65.51 Designation of Mayor as "Permit Authority"

Pursuant to Subdivision "1" of §405.00 of the Penal Law of the State of New York, the Mayor is hereby designated the "Permit Authority" to grant and issue permits for the public display of fireworks in accordance with the provisions of §405.00 of the Penal Law.

ARTICLE VI

CURFEW

§65.61 Curfew on Minor Persons

It shall be unlawful for any child under the age of eighteen (18) years to be upon any of the streets, sidewalks, alleys or public places of the Village between the hours of 10:00 pm and 5:00 am, Sundays through Thursdays, and between 11:00 pm and 5:00 am, Fridays and Saturdays, unless accompanied by a parent, guardian or other person having legal custody or control of such minor person or unless actually proceeding without delay to or from a lawful destination such as a school or church activity or place of employment, but shall not apply when the minor person is playing or loitering in or upon such places.

§65.62 Responsibility of Parent or Guardian

No parent, guardian or any other person having the legal care, custody or control of any child under the age of eighteen (18) years shall knowingly allow or permit such child to go or be in or upon any of the places referred to in §65.61 in the Village of Gowanda, New York, after the time specified in §65.61 unless there exists reasonable necessity therefore.

§65.63 Police to Enforce

It shall be the duty of each officer of the Police Department of this Village to take into custody any minor person violating the provisions of §65.61 of this Article, and to turn over said minor person to his or her parent, guardian or to the person having legal custody of such minor person, and to notify such parent, guardian or other

person having legal custody of such minor, of the violation of §65.61 of this Article.

§65.64 Parent or Guardian Liable to Prosecution

The failure or neglect of any parent, guardian or other person having legal custody and control of any child, to exercise reasonable diligence in the control of his or her child so as to prevent him or her from violating the provisions of this Article, or the conduct of any parent, guardian or other person who knowingly and willingly is responsible for, encourages, aids, causes, connives at or promotes any violation of any of the provisions of this Article, shall be subject to a fine of not more than two hundred fifty dollars (\$250.00) or imprisonment for not more than ten (10) days or both such fine and imprisonment.

§65.65 Detention of Minor

Any Police Officer of the Village is authorized to detain any minor violating §65.61. Provided, however, that no minor shall be placed in confinement until reasonable effort shall have been made to locate and verbally notify the parent, guardian or legal custodian of such minor of such detainment, and that an opportunity be given to such parent, guardian or legal custodian to appear and obtain custody of such minor.

§65.69 Violations of Article; Penalties

- A. Children under seven years of age: Any child, under the age of seven (7) years violating any of the provisions of this Article shall be conducted by any police officer discovering such violation to the child's home and such officer shall forthwith report in writing, the name and residence of the parents of such child to the Chief of Police of such Village of Gowanda, New York. Should it appear that such child falls within the provisions of Article 10 of the Family Court Act, such child shall be dealt with as provided in such law.
- B. Children between seven and sixteen years of age: All persons between the age of seven (7) and less than sixteen (16) years violating any of the provisions of the Article shall be deemed and are hereby declared to be neglected or delinquent within the provisions of Article 10 of the Family Court Act.
- C. Children sixteen years of age and over; penalty: Any minor over the age of sixteen (16) years convicted of violating any provision of this Article shall be deemed to be guilty of a violation, and shall be subject to a fine or not more than two hundred fifty dollars (\$250.00) or imprisonment for not more than ten (10) days or both such fine and imprisonment.
- D. Under the age of sixteen; court procedure: Any person under the age of sixteen (16) years convicted of violating any provisions of this Article shall within the provisions of Article 10 of the Family Court Act. [Article VI added; LL #1, 1/24/95, §1. Former Articles VI and VII renumbered to Articles VII and VIII respectively by LL #1, 95, §2.]

ARTICLE VII

LOITERING

§65.71 Loitering

- A. No person shall loiter in or around public buildings or obstructed corridors, stairways or doorways, so as to prevent free access by members of the public, officers or employees. No person shall by his presence or by means either alone or in consort with others interfere with or interrupt the conduct of business in the offices located in any such buildings.
- B. No person shall loiter in or upon any public sidewalk, street, public building or place or obstruct the use thereof so as to prevent free and reasonable access by other members of the public or prevent the exercise of duties by public officers or employees.

ARTICLE VIII

PENALTY

§65.81 Penalty

Each violation of any provisions of this Chapter shall constitute a violation pursuant to the Penal Law. However, in no case shall the fine imposed exceed two hundred fifty dollars (\$250.00). Each day that a violation shall continue to exist, shall be deemed to be a separate violation.

Cross-References:

Littering. §§44.12 - 44.15

Streets and Public Places. Chapter 44.

Barriers and excavations. §§44.4, 44.5.

Trap doors. §44.9.

Swimming Pools. Chapter 35

Unsafe Buildings. Chapter 33.

References:

Curfew.

A curfew ordinance is a statutorily permissible exercise of a municipality's police power. *Bykofsky v Borough of Middletown*, 401 F Supp. 1242; *Naprstek v City of Norwich*, 545 F2d 815. Child Protective Services. Family Court Art. 10

Police cannot arrest a minor for violation of a curfew ordinance. *Mtr of Michael G.* 99 Misc2d 699.

Firearms. Penal L §265.05(4).

Possession of weapons and dangerous instruments. Penal L §265.05
Minors under sixteen. Penal L §265.05(4).

Fireworks, possession or sale. Penal L §270.00(1)

Littering of public streets

Municipality may prohibit littering but may not require trucks to be equipped with
meal or canvas covers. *N.Y. Trap Rock Corp. v. Inc. Village of Roslyn*, 66 Misc2d 334.

Loitering Penal L. §240.35 held unconstitutional *People v. Berck*, 32 NY2d 567. See also *People v. Diaz*, 4 NY 2nd 469 which held that loitering ordinance unconstitutional since it was not coupled with another act. See *People v. Baer*, 50 Misc2d 357 in which validity of ordinance was upheld.

CHAPTER 72

SOLID WASTE

ARTICLE I

RECYLING, COLLECTION AND DISPOSAL

§72.1 Title

This Article shall be known as the "Solid Waste Law of the Village of Gowanda."

§72.2 Legislative Determination

The Village Board of the Village of Gowanda has determined.

- A. The reduction, reuse, recycling and proper disposal of solid waste are important public concerns and will benefit public health, safety and welfare and aid in preservation of the environment.
- B. The program established hereunder for the separation, preparation, collection and disposal of solid waste shall be under the supervision of the Village Board of the Village of Gowanda directly or through its designated agencies or representatives, as determined by the Village Board.

§72.3 Definitions

The following words and phrases used throughout this Article shall have the following meanings:

Collection Site: The spot or area, curbside or otherwise, specified as the site for placement of solid waste, which has been prepared for collection. The Village Board may prescribe standards for designating and maintain a "collection site" by rule, regulation or order, as it deems appropriate.

Non-Recyclable Waste:

- A. Those items of solid waste, excluding recyclable waste and special solid waste, as defined herein, designated by the Village Board as eligible for curbside pick-up. "Non-recyclable waste" includes, but is not limited to:
 - 1. Garbage: putrecible solid waste, including animal and vegetable waste resulting from the handling, storage, sale, preparation, cooking and serving of foods.

2. Rubbish: rags, sweepings, excelsior, rubber (other than vehicular tires), leather, crockery, shells, clothing, straw, dirt, filth, wastepaper and waste glass not meeting the definition and/or specifications for recyclable waste and similar waste materials.
- B. The above list may be modified by rule, regulation or order of the Village Board, as the need arises.

Non-Residential Generator: Any person who generates solid waste in the Village of Gowanda and who is not a residential generator, as defined herein.

Person: Any individual, natural person, firm, partnership, association, corporation, institution or other entity.

Private Collector(s): A person, firm, partnership, corporation or other legal entity providing services for the collection, transportation and/or disposal of solid waste, duly licensed by the Village of Gowanda pursuant to this Article.

Recyclable Waste: Those materials designated by the Village Board as requiring separation from all other solid waste at the source of generation. They include, but are not limited to, corrugated cardboard, high-grade paper, newspapers, magazines, aluminum and metal beverage containers, clear glass bottles and jars and plastic containers designated No. 1 and No. 2 on their recycling codes. The above list of materials may be modified by rule, regulation or order of the Village Board, as the need arises.

Residential Generator: Any person including a lessee or other person in possession, who generates solid waste on or at a site or parcel which is part of the Village of Gowanda Garbage District.

Solid Waste: All putrescible and non-putrescible materials that have been discarded or rejected, including but not limited to recyclable, non-recyclable and special solid waste, as defined herein, garbage, refuse and rubbish resulting from residential, commercial, industrial and community activities. Not included are hazardous wastes as identified and defined by the New York State Department of Environmental Conservation.

Special Solid Waste: All other solid waste or other waste materials not identified or treated as either recyclable waste or non-recyclable waste herein, including but not limited to:

- A. Major appliances: stoves, refrigerators, dishwashers, dryers, washing machines, sinks, toilets and other similar large appliances.
- B. Large household furnishings: all other large and/or bulky articles actually used in the home and which equip it for living, such as chairs, sofas, tables, beds, carpets and similar items.

- C. Green waste: leaves, grass clippings from lawns, flowers or gardens, brush and cuttings from shrubs, hedges and trees which are not reused or composted but are intended for disposal as part of the waste stream.
- D. Construction and demolition debris: discarded building materials, concrete, stones, waste earth from excavations, or grading and all other refuse matter resulting from the erection, repair, remodeling or demolition of buildings, structures or other improvements of property.
- E. Vehicular tires or tire casings, batteries, motor oil, paint and containers for the same.
- F. Hazardous waste: as defined in the New York State Environmental Conservation Law, Article 27, and also including, but not limited to: low-level radioactive waste and special nuclear or by-product material as defined by Article 29 of the Environmental Conservation Law and the United States Atomic Energy Act of 1954, respectively.

Suitable Container(s): Such container as shall, from time to time, be designated as acceptable for the collection of recyclable waste, non-recyclable or special solid waste for residential generators by resolution of the Village Board or by their private collectors, in compliance with this Article.

§72.4 Source Separation of Solid Waste

- A. No person shall prepare solid waste for collection and disposal except as provided herein:
 - 1. Recyclable waste shall be separated from other solid waste at the point of waste generation;
 - 2. Recyclable waste from residential generators shall be separated from other solid waste and placed in one (1) or more suitable containers or curb-side collection, prepared for collection in such manner as may be required by rule, regulation or order of the Village Board.
 - 3. Recyclable waste from non-residential generators shall be separated from other solid waste and placed in one (1) or more suitable containers for collection prepared for collection in such manner as may be required by rule, regulation or order of the Village Board.
 - 4. Non-recyclable waste from residential generators shall be separated from other solid waste and placed in suitable containers for curb-side collection, in such allowable quantities and prepared for collection in such manner as may be required by rule, regulation or order of the Village Board.
 - 5. Non-recyclable waste from non-residential generators shall be separated from other solid waste and placed in suitable containers and prepared for collection in such manner as may be required by rule, regulation or order of the Village Board.

6. Recyclable waste and non-recyclable waste shall not be co-mingled with each other or with other solid waste at any point during its preparation for collection, and it shall be a violation of this Article for any person to prepare and set out for collection any can, container or bag containing solid waste which has not been separated and prepared as required herein.

§72.5 Compliance Required

It shall be a violation of the article for any person to collect, pick up, remove or dispose of or allow to be collected, picked up, removed or disposed of any solid waste within the Village of Gowanda, except as provided in this Article.

§72.6 Residential and Non-Residential Generators

- A. Recyclable and non-recyclable waste from residential and non-residential generators shall be collected and disposed by the Village of Gowanda, or its authorized collector, in the manner and at the times and places as may be specified from time to time by rule, regulation or order of the Village Board.
- B. No residential or non-residential generator shall mix or cause to be mixed with his recyclable and/or non-recyclable waste prepared for collection and disposal by the Village of Gowanda or its authorized collection any solid waste not generated by such residential and non-residential generator within the Village of Gowanda.
- C. Neither the Village of Gowanda nor its authorized collector shall have any obligation to collect, and shall not collect, any solid waste not prepared for collection in accordance with this Article.
- D. Recyclable waste placed at the curb-side or other appropriate place for collection by the Village, as provided herein, shall become the property of the Village of Gowanda upon placement at the collection site. No person who is not acting under authority for the Village of Gowanda, or its authorized collector, shall collect, pick up or remove or cause to be collected, picked up or removed any recyclable waste so placed for collection. Each authorized collection, pick up or removal shall constitute a separate violation of this article; provided, however, that where the Village has refused to collect certain recyclables because they have not been prepared and placed for collection in accordance with this Article, the residential generator may and shall remove such recyclable from the collection site.
- E. All other solid waste from residential and non-residential generators, including but not limited to construction and demolition debris, major appliances, large household furnishings, tires and auto batteries and green waste, shall be collected and disposed of by private collectors, duly permitted by the Village under the Article. The Village Board may, from time to time, authorize special collection and disposal programs for one (1) or more of these items, on such terms and conditions as it may deem appropriate.

§72.7 Disposal on Streets Prohibited

No person, resident or non-resident, shall throw, deposit or dump or cause to be thrown any garbage, rubbish, solid waste or recyclable or non-recyclable waste of any type on any public highway, street, roadside or land, whether developed or undeveloped, within the Village of Gowanda.

§72.8 Solid Waste Collection License

- A. No person shall collect, pick up or remove for disposal for a fee, any solid waste from any residential or non-residential generator in the Village of Gowanda without first obtaining a solid waste collection license (SWC License) from the Village Clerk.
- B. The application for the SWC License shall be on such forms as are prescribed by rule, regulation or order of the Village Board. Each application shall be completed by the applicant or a duly authorized representative of the applicant, shall be accompanied by the appropriate fee and shall contain, at a minimum, the following:
1. The name, business address and business telephone and facsimile number(s) of the private caller.
 2. A description of the specific types of solid waste to be collected and disposed of under the license.
 3. A description of the manner of collection and the location and method of disposal of the recyclable waste, non-recyclable waste and other solid waste to be collected and disposed of under the License. (Applicants must provide a copy of their specification to customers for preparation of solid waste for collections and disposal, and such specifications must comply with the requirements of the Article.)
 4. A sworn statement that the applicant will not accept for disposal any solid waste which has not been prepared for collection and disposal as required by this Article and acknowledging that the issuance of this License is conditioned upon its collection and disposal operations conforming, in all respects, to the purpose, intent and requirements of this Article.
- C. Subject to the requirements of this section, the SWC License shall be issued by the Village Clerk upon completion of the application and payment of the appropriate fee and shall be valid for one (1) calendar year, expiring on December 31st of each year, unless earlier suspended or terminated as provided herein. The fee shall be established by resolution of the Village Board on an annual basis.
- D. The SWC License shall require each licensed collector to maintain separate monthly records showing certain information regarding collection and disposal from generators within the Village of Gowanda. Such records shall specify the type and number of generators serviced, the quantity of recyclable, non-recyclable

and other solid waste collected and the location and manner of disposal, by tonnage. Such record(s) shall be delivered to the Village Clerk quarterly.

- E. All licensed collectors shall indemnify and hold harmless the Village of Gowanda for any pending threatened or actual claims, liability or expenses arising from collection and/or disposal of solid waste by the licensed collector in violation of the Article.
- F. Failure of the private collector to comply with all the above requirements and all requirements of this Article shall constitute grounds for suspending or terminating said collector's license or for denying the issuance of said collector's license.
- G. Written notice shall be given to the private collector of the reason for any SWC License denial, suspension and/or termination, and such private collector shall be entitled to demand, within ten (10) days of its receipt of such written notice, a hearing before the Village Board on the issue. Such hearing shall be held within ten (10) days of the receipt by the Village of the demand for such hearing and written notice of the Village Board's decision shall be given to the private collector no later than ten (10) days after such hearing.

§72.9 Promulgation of Rules, Regulations and Orders

The Village Board is hereby authorized to promulgate such rules, regulations and orders as it may deem reasonable and necessary to carry out the intent and purpose of this Article. Such rules, regulation and orders shall be adopted by Village Board resolution.

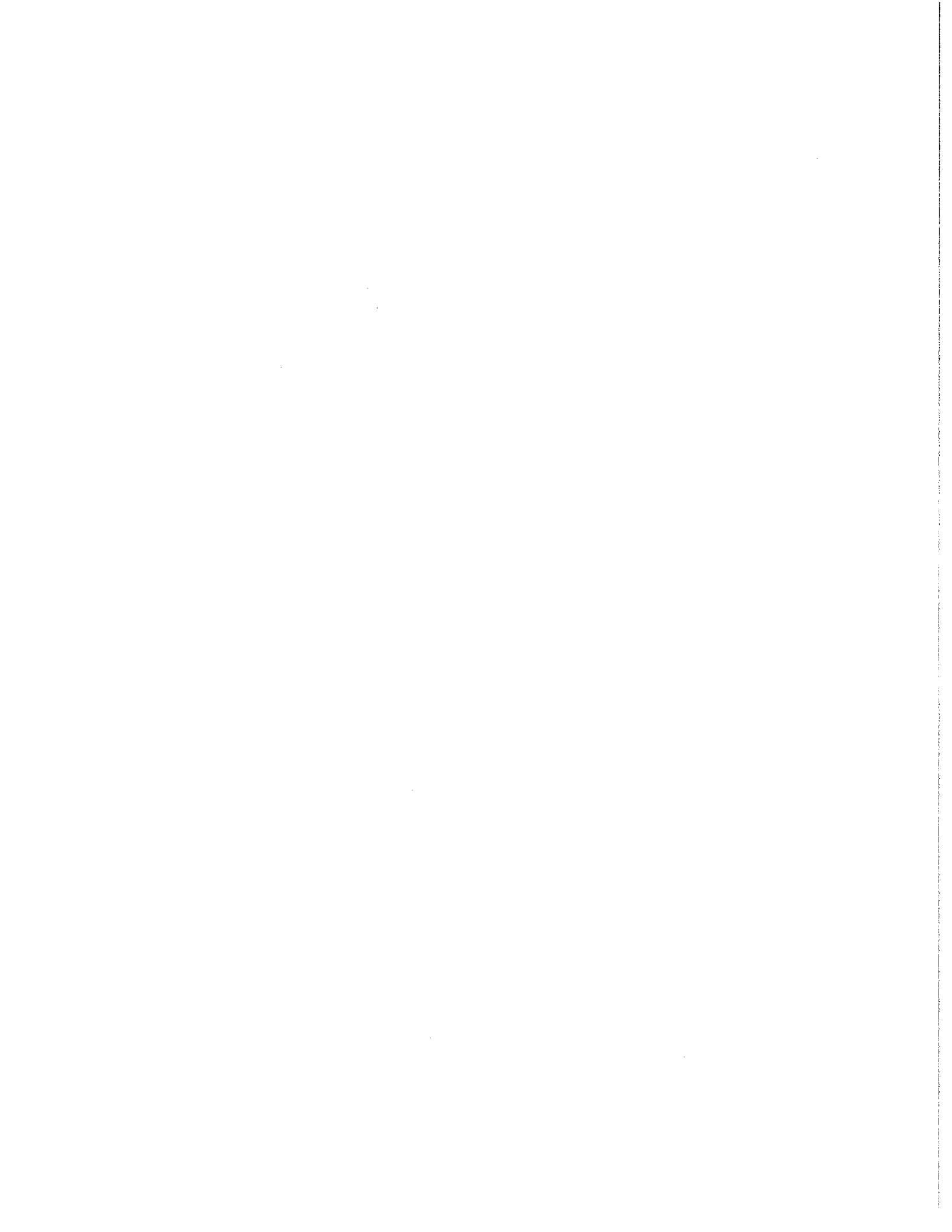
§72.10 Enforcement

Enforcement of this Article will be maintained by any police officer, code enforcement officer or any other person or persons duly designated by the Village Board of the Village of Gowanda.

§72.11 Penalties for Offenses

- A. Each and every violation of this Article shall constitute a separate violation as defined in the Penal Law and shall be punishable as follows:
 - 1. A fine of fifty dollars (\$50.00) for the first (1st) violation;
 - 2. A fine of one hundred dollars (\$100.00) for the 2nd violation; and
 - 3. A fine of two hundred fifty dollars (\$250.00) for the 3rd violation.
- B. In the event of succeeding and continuing violations, any person who shall be convicted of violating or failing to comply with the provisions of this Article shall be liable for a fine of two hundred fifty dollars (\$250.00) per day.

- C. In addition to the above penalties, the Village Board may also maintain an action or proceeding to compel compliance with this Article or to restrain, by injunction, the violation of this Article.



CHAPTER 81

PARTIAL TAX EXEMPTION

§81.1 Partial Tax Exemption for Certain Persons Over 65 Years of Age

Real property in the Village of Gowanda owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, one of whom is 65 year of age or over, shall be exempt from taxation by the Village to the extent of fifty per centum of the assessed valuation thereof.

§81.2 Limitations on Exemption

No exemptions shall be granted:

- A. If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making the application for exemption is:

\$18,500 or less	50% of assessed value exempt
\$18,501 but less than \$19,500	45% of assessed value exempt
\$19,501 but less than \$20,500	40% of assessed value exempt
\$20,501 but less than \$21,500	35% of assessed value exempt
\$21,501 but less than \$22,400	30% of assessed value exempt
\$22,401 but less than \$23,300	25% of assessed value exempt
\$23,301 but less than \$24,000	20% of assessed value exempt

Income year shall mean a twelve (12) month period for which the owner or owners filed a federal personal income tax return, or if no such return is filed, the calendar year. Where title is vested in either the husband or wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, net rental income, salary or earnings and net income from self-employment, but shall not include gifts or inheritances.

- B. Unless the title of the property shall have been vested in the owner or all of the owners of the property for at least twenty-four (24) consecutive months prior to the date of making application for exemption, provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purpose of computing such period of twenty-four (24) consecutive months provided further, that in the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property the time of ownership of the property by the transferor spouse shall be

deemed also a time of ownership by the transferee spouse and such ownership shall be deemed continuous for the purposes of computing such period of twenty-four (24) consecutive months and provided further that where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, and further provided that where a residence is sold and replaced with another within one year and is in the same assessment unit, the period of ownership of the former property shall be combined with the period of ownership for which application is made for exemption and such periods of ownership shall be deemed to be consecutive for purpose of this section.

- C. Unless the property is used exclusively for residential purposes.
- D. Unless the property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property.

§81.3 Application to Town Assessor

A person seeking such exemption shall make an application to the appropriate Town in which such individual lives, and shall follow such procedures and requirements as may be imposed by that tax assessing entity.

§81.4 (Repealed)

§81.5 Offset for Medical Expenses

Any income used in the determination of applicants' eligibility for the exemption hereby granted shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance.

§81.10 Penalties and Forfeiture

Any conviction of having made any willful false statements in the application for such exemption, shall be punishable by a fine of not more than one hundred dollars (\$100.00) and shall disqualify the applicant or applicants from further exemption for a period of five (5) years.

Authority: Real Property Tax L §467.

CHAPTER 82

TAX EXEMPTION FOR ELIGIBLE BUSINESS FACILITIES CERTIFIED BY NEW YORK STATE JOB INCENTIVE BOARD

§82.1 Exemption of Certain Business Facilities

An exemption from real property taxes and special ad valorem levies imposed by the Village of Gowanda for village purposes shall be granted to each eligible business facility, as certified by the New York State Job Incentive Board pursuant to section one hundred twenty of the Commerce Law, to the extent of one hundred percent (100%) of the assessed value of any increase in the value of such facility which is attributable to expenditures certified by said Board to have been paid or incurred by the owner or operator of such facility for capital improvements commenced on or after the effective date of this Chapter, consisting of the construction, re-construction, erection or improvement of depreciable real property included in such facility and located within the geographical limits of the Village of Gowanda.

§82.2 Application for Exemption

Such exemption shall be granted only upon application by the owner or operator of such facility on a form prescribed by the State Board of Equalization and Assessment to which there shall be attached a copy of a certificate of eligibility issued by the New York State Job Incentive Board. Such application shall be filed with the Village assessor on or before the appropriate taxable status date of the then current year. Copies of such application shall be filed simultaneously with the State Board of Equalization and Assessment and with the New York State Job Incentive Board.

§82.3 Duties of the Village Assessor

- A. The Village Assessor shall consider the application and if the same is in order shall determine the assessed value of such increase in value of such facility in accordance with the certificate of eligibility and enter such assessed value on the exempt portion of the assessment roll. The exemption provided in Section 82.1 of this Chapter shall take effect commencing with the assessment roll prepared on the next following taxable status date.
- B. Such exemption shall be granted by the Village Assessor from year to year for a period not to exceed ten (10) years provided that the owner or operator of the eligible facility, on or before the taxable status date of each succeeding year, shall furnish proof satisfactory to the Village Assessor that the certificate of eligibility respecting said exemption has not been modified or revoked and has been renewed or extended as provided in section one hundred twenty of the Commerce Law.

- C. If an exemption has once been granted for a business facility under this Chapter and the Village Assessor shall receive notice that a certificate of eligibility of such facility has been revoked or modified, he shall then re-determine the assessed value of any such exempt property in accordance with such revocation or modification. If upon such redetermination it appears for a year for which an exemption has been granted that such facility has been ineligible for that the assessed value of such exempt property as re-determined is less than the assessed value of such previously exempted property as shown on the assessment roll for such year, then a tax shall be levied at the rate of tax for such year upon so much of the assessed value of such previously exempted property, as shown on such assessment roll, as may have been ineligible or excessive. Such tax shall be levied as an omitted assessment in the manner provided in section five hundred fifty of the Real Property Tax Law. Any such redetermination shall be made no later than three (3) years after the applicant for exemption has received the benefit of any exemption under this Chapter.

§82.4 Effective Date

This local law shall take effect immediately.

HISTORICAL NOTE

This Chapter was enacted by Local Law #2 of the year 1977, on August 16, 1977.

References:

Application required. Real Prop Tax L §85(5)
Assessor's responsibility. Real Prop Tax L §485(6)
Extent of exemption authorized. Real Prop Tax L §485(3)
Local law subject to referendum on petition. Mun HRL §24(2)[3]
Revocation or modification. Real Prop Tax L §485(7)

CHAPTER 83

VETERANS ALTERNATIVE EXEMPTION

§83.1 Intent

It is the intent of this law to provide that the veterans' alternative exemption provided by Chapter 525 of the Laws of the State of New York of the year 1984 shall not be granted with respect to real property in the Village of Gowanda.

§83.2 No Exemption to Veterans Pursuant to RPTL §458-a

Pursuant to the provisions of subdivision 4 of Section 458-a of the Real Property Tax Law of the State of New York, no exemption from real property taxes shall be granted pursuant to Section 458-a of the Real Property Tax Law for purposes of real property taxes levied by and for the Village of Gowanda.

HISTORICAL NOTE

This Chapter was added by Local Law #3 of the year 1984.

References:

Veterans exemption. RPTL §458.

Veterans exemption – alternative; period of ten years. RPTL §458-a(2)(d)(iii)]

Application for. RPTL §458-a(3)

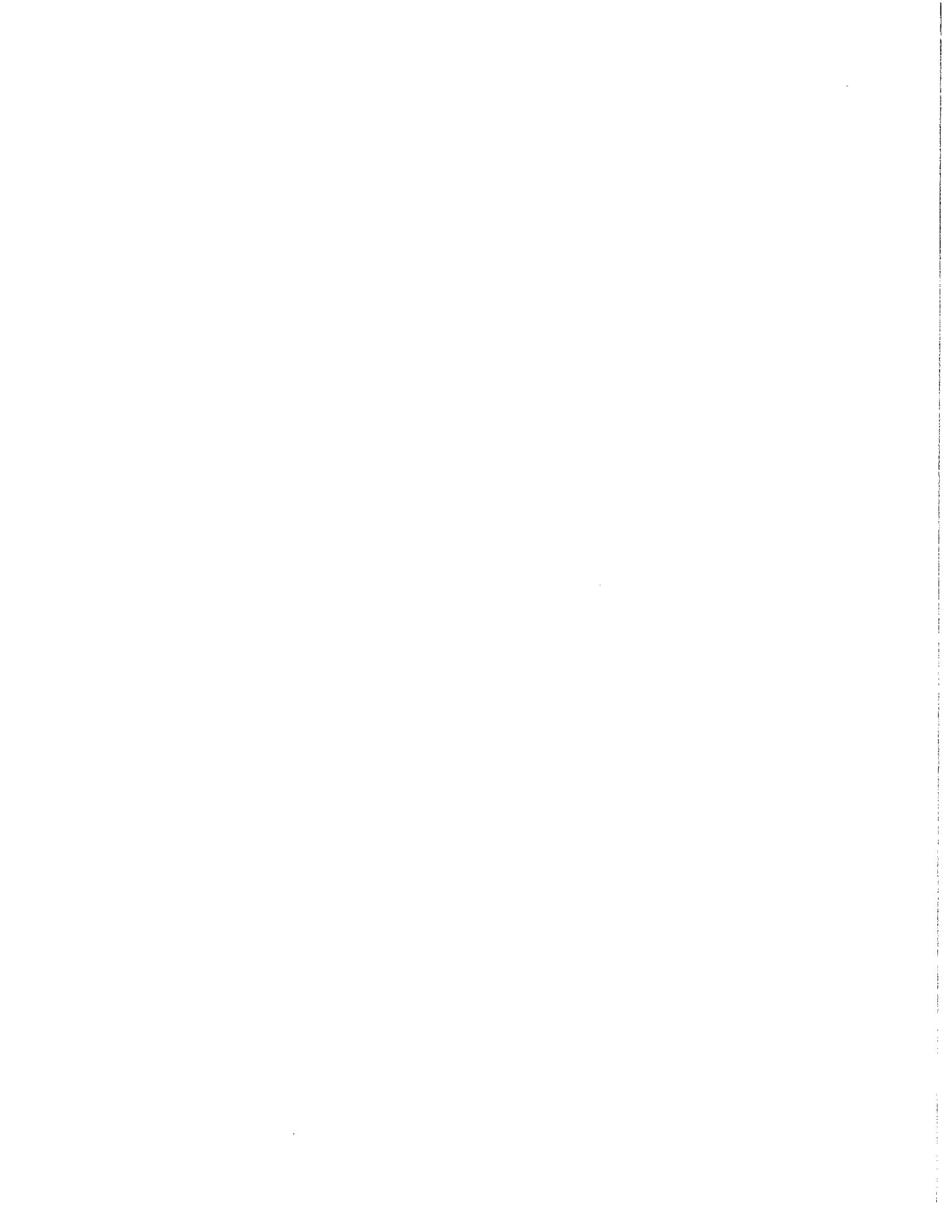
Election not to grant. RPTL §458-a(4)

Purchase of property; time to apply and period to commence. RPTL §458-a(2)(d)(iii)]

Qualifying residential real estate. RPTL §458-a(1)(d)]

Reduction of exemption; option to. RPTL §458-a(s)(d)(iii)]

School taxes, not applicable. RPTL §458-a(2)(d)]



CHAPTER 84

SIGNS

[HISTORY: Adopted by the Board of Trustees of the Village of Gowanda 10/26/04 as Local Law No. 1-2004. Replacing Section 30.34 of the Village Code.]

GENERAL REFERENCES VILLAGE CODE BOOK

- Building Construction - See Chapter 27
- Dangerous Buildings and Structures - See Chapter 33.4, 33.7
- Business Control and Licenses - See Chapter 16
- Poles, wires, cables - See Chapter 44, 65, 8
- Streets and Sidewalks - See Chapter 44
- Subdivision of Land - See Chapter 31
- Zoning - See Chapter 30

Be it enacted by the Board of Trustees of the Village of Gowanda, New York, as follows:

§84.1 Purpose

This local law balances the need to protect the public safety and welfare, the need for a well maintained and attractive community, and the need for adequate identification, communication and advertising. This local law for signs has the following specific objectives:

- A. To ensure that signs are designed, constructed, installed and maintained according to minimum standards to safeguard life, health, property and public welfare;
- B. To allow and promote positive conditions for sign communication while at the same time avoiding nuisances to nearby properties;
- C. To reflect and support the desired character and development patterns of the various zones and planned districts and promote an attractive environment;
- D. To allow for adequate and effective signs in business and industrial zones while preventing signs from dominating the appearance of the above;
- E. To improve pedestrian and traffic safety; and
- F. To ensure that the constitutionally guaranteed right of free speech is protected.

§84.2 Applicability

This local law states the standards for the number, size, placement, and physical characteristics of signs. This local law applies to signs in all zoning districts within the Village of Gowanda. Other regulations in the Village code may also apply to signs. No sign shall be placed or constructed on any property within the Village of Gowanda that is not in compliance with this Local Law or other applicable provisions of the Gowanda Village Code. Proposals for signs where this Local Law is silent, or where the rules of this Sign Local Law do not provide a basis for concluding that the sign is allowed, are prohibited.

§84.3 Definitions

Sign: The term "sign" as used in this local law, means any identification, description, illustration, device or other material or materials, or part thereof, whether illuminated or not illuminated, upon which lettering or pictorial matter is placed which is out of doors, on the exterior of any building or structure to directly applied to or attached to any window for display of any advertisement, announcement, notice, directional matter, name, picture, logo, insignia, graphic images, design, whether painted, lettered or colored, which directs attention to a product, service, place, activity, person, institution, business or solicitation, and shall include sign frames, billboards, bulletin boards, signboards, painted walls, free-standing signs or ground signs, but does not include temporary signs placed in window display areas or signs erected and maintained pursuant to and in discharge of any governmental function or required by any laws, ordinances or governmental regulations. In the event that a "sign" is painted or applied to the face of a building or structure, the area of the "sign" shall be taken as the area required to circumscribe all letters, pictorials, graphic images and other devices.

Front or Face of a Building: The term "front or face of a building," as used in this local law, means the general outer surface of the building abutting or fronting upon any private or public street, highway, alley or other area used by the general public as a travel way, including shopping center sidewalks.

Projecting Sign: the term "projecting sign" as used in this local law, means any sign which projects in excess of twelve (12) inches from the exterior of any building in the Village of Gowanda.

Freestanding Sign: The term "freestanding sign" as used in this local law means any sign not affixed to a building and held in position permanently by a post, pedestal or similar support.

Person: The term "person" as used in this local law means and includes one (1) or more persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

Building Inspector: The term "building inspector" or inspector of buildings as used in this local law means the Inspector of Buildings or the Code Enforcement Officer of the Village of Gowanda or other offices duly authorized to perform his duties.

Temporary Sign: The term “temporary sign” as used in this local law means any sign intended to be used or emplaced for a period of thirty (30) days or less, and shall include banners, promotional devices and other signs of similar nature, but not including “For Sale,” “For Rent” and “Sold” signs as provided for in Section 94-10.1

Marquee: The term “marquee” as used in this local law means a roof-like shelter projecting above an outer door of a theater, hotel or motel.

Business Establishment: The term “business establishment” as used in this local law means a mercantile building or a portion of a mercantile building in which a business operation is conducted.

Village: The term “village” as used in this local law means the Village of Gowanda, in both Cattaraugus and Erie County, New York.

Non-Conforming Sign: Any sign which was lawfully erected and maintained or granted by variance prior to enactment of the Local Law and which fails to conform to all applicable regulations and restrictions of the Local Law.

Off-Premise Sign: A sign designed, intended or used to advertise, inform or attract the attention of the public as to:

- A. Goods, products or services which are not sold, manufactured or distributed on or from the premises which the sign is located;
- B. Facilities not located on the premises on which the sign is located; or
- C. Activities not conducted on the premises on which the sign is located.

Banner Sign: A sign made of fabric or other non-rigid material with no enclosing framework.

Pennant: A lightweight plastic, fabric, or other material whether or not containing a message of any kind, suspended from a rope, wire, string, or rigid arm, usually in series and often designed to move in the wind.

Unsafe Sign: A sign constituting a hazard to safety or public welfare by reason of inadequate maintenance, dilapidation, obsolescence, disaster, damage, abandonment, or inability to meet lateral and/or vertical loads as determined by the Village Building Inspector.

§84.4 Permit Required

After the effective date of this local law and except as otherwise herein provided, it shall be unlawful and a violation of this local law for any person to erect, construct, relocate, create or cause to be erected, constructed, relocated or created within the incorporated area of the Village of Gowanda any sign or signs without first having

obtained a written permit from the Building Inspector for such sign or signs and without having complied with the provisions of this local law. Every such sign so permitted shall have the number of the permit marked upon the face of such sign in a permanent manner, provided, however, that no permit shall be required for a "For Sale," "For Rent," or "Sold" sign as provided in Section 84.10-1.

§84.5 Permit Exceptions

The following signs or signing operations shall not require a sign permit:

- A. Signs of constituted governmental body;
- B. Memorial tablets;
- C. Historic markers;
- D. Signs within an athletic stadium;
- E. Flags of the United States or State;
- F. Small signs which display or post address numbers;
- G. Seasonal displays and decorations which do not advertise product or service;
- H. Temporary signs for official notices;
- I. Wall or ground signs not exceeding four (4) square feet, warning the public against hunting, fishing or trespassing on the property, but only where such warning is justifiable;
- J. Normal maintenance and repair of a conforming sign.

§84.6 Application Procedure

Any person desiring to procure a permit for a sign or signs shall file with the Building Inspector a written application which shall contain:

- A. A drawing showing the lettering and pictorial matter composing the sign, the dimensions of the sign the dimensions of the lettering or emblem involve and a description of the construction details of the sign structure and mounting devices, a location plan showing the position of the sign on the building or premises and such other information as the Building Inspector may require to show compliance with the provisions of this local law.
- B. A written statement showing the name of the owner or of the person in control of the building or premises where such sign is to be located and the right of authority of the applicant to obtain a permit.

- C. The name, address and telephone number of the applicant and the owner of the building, structure or land upon which the sign is to be erected.
- D. The written consent of the owner of the building, structure or land upon which the sign is to be erected in the event that the applicant is not the owner thereof.
- E. The application for a permit for a sign on an awning shall show the location, size and structure of the awning and the lettering or pictorial matter to appear thereon.
- F. The fee for a permit issued pursuant to §84-4.

§84.7 Regulations Pertaining to all Signs in all Districts

- A. Permitted sign copy. Signs may bear the name of the proprietor of the business conducted, the nature of the business, the goods sold or the services rendered on the premises or any or all of them. Signs not advertising the business and/or service rendered or goods sold on the premises are hereby prohibited.
- B. Any legal non-conforming sign which does not directly relate to the sale of the goods or services rendered on the property or a sign advertising a previous business on the premises which has not been purchased, leased or assumed by the present occupant shall be taken down and removed within sixty (60) days following the date after which said non-conforming sign no longer directly relates to the sale of goods or services rendered on the property.
- C. Projecting signs. Projecting signs over any public way are prohibited, except for signs hung from the underside of a covered walkway related to the entrance of an individual business establishment and except for temporary signs permitted by §84-10 of this local law.
- D. Prohibited signs and devices. Revolving, moving, fluttering, flashing signs, lights and similar devices are prohibited.
- E. Religious, patriotic and holiday decorations. This local law shall in no event be construed or employed in any manner to prohibit the decoration of premises in any district during religious, patriotic or holiday seasons.
- F. Service organization identification signs. Service organizations are permitted to post emblems or signs in the village at specific places upon obtaining a permit from the Village Building Inspector.
- G. Political signs and banners. This local law shall in no event be construed or employed to restrict the political process within the Village of Gowanda. Such

political signs shall be removed within seven (7) days after the political election to which they pertain.

§84.8 Sign Regulations in R Districts

- A. In R Districts, as established by the Zoning Law of the Village of Gowanda, signs shall be erected or placed as follows:
1. Signs located on the principal building or on a separate post support not closer to any street than a distance equal to one-half (1/2) the required setback from such street and not exceeding seven (7) feet in height, shall be permitted as follows:
 - a. Identification signs. One (1) non-illuminated identification sign not exceeding two (2) square feet in area, such sign shall consist of a nameplate with no lettering except to indicate the name of the resident and to identify a permitted use.
 - b. Bulletin boards. Church, school or other institutional bulletin boards not exceeding twenty-five (25) square feet in area. Such sign may be illuminated by a non-flashing shielded source of light.
 - c. Funeral home identification signs. A funeral home which has been in the same location since on or before 10-26-2004 may be identified by one (1) identification sign not exceeding two (2) feet in height and five (5) feet in width, such sign may be either attached to and be flat or parallel with the structure it identifies or be free-standing on a post support. Such identification sign, if freestanding, may be a two-faced sign. Such sign may be lighted from a concealed location, which light shall be directed away from adjacent properties. Such sign may be illuminated, but only by a steady, non-flashing internal or external light suitably shielded so as to eliminate glare and annoyance to passersby or adjacent property. No such sign shall be illuminated between 11:00 pm and 8:00 am.
 2. Special provisions of R3 Districts. In the R3 Districts the following signs for identification of structures and residents of multiple dwelling groups are permitted:
 - a. Dwelling group identification. One (1) sign not exceeding twenty-five (25) square feet in area to identify a multiple dwelling or dwelling group complex of two (2) or more structures. Such sign may be illuminated by a non-flashing shielded source of light, which light shall be directed away from adjacent streets and highways and away from adjacent properties.
 - b. Resident identification. One (1) sign not exceeding two (2) square feet in area to identify the name of and/or the residents of multiple dwelling or separate structure in a dwelling group. Such sign shall be non-illuminated and shall be attached to and be flat or parallel with the structure it identifies.
- B. Special provisions for B2 Districts. In B2 Districts, as established by the Zoning Law, signs are as regulated in the R District, except that a larger identification sign shall be permitted, provided that it:
1. Does not exceed twenty-five (25) square feet in area.

2. Is unlighted except by light from a concealed location, which light shall be directed away from adjacent properties.
3. If freestanding, is on a post support and is placed so as to be parallel with the street.

§84.9 Sign Regulations in B1, B2 and I1 Districts

- A. For the purpose of this local law, buildings in B1, B2 and I1 Districts, as established by the Zoning Law of the Village of Gowanda, shall be divided into two (2) major classifications as follows:
 1. Class 1: Buildings located directly on a public street.
 2. Class 2: Building or buildings physically located in such a manner as to constitute a shopping center or a plaza and where an off-street parking area is so located as to cause an intervening open space of seventy (70) feet or more between it or them and the nearest public street right-of-way. Such parking area must contain a minimum of seven thousand (7,000) square feet to designate the building or buildings as a shopping center or plaza.
- B. Class 1 building. Business signs shall be permitted to be erected, constructed, relocated or created on Class 1 buildings in B1, B2 and I1 Districts as follows:
 1. Location: On the face of the building fronting on a public street or public parking area, but not projecting more than twelve (12) inches from the building wall.
 - a. Freestanding signs. In the case of a building which is set back from the street right-of-way more than ten (10) feet, a freestanding sign or signs may be erected inside the property lines. Such freestanding signs shall be parallel with the street.
 - b. Roof signs. No sign shall be erected upon the roof of a building or in such a manner as to extend more than three (3) feet above the eave line or, in the case of a flat roof, more than three (3) feet above the top surface of the roof.
 - c. Building side and face. Signs may be placed on the side, face or wall of a business establishment. They may not project more than twelve (12) inches from such side, face or wall.
 - d. Exceptions as to location. Service and/or loading dock signs may be located immediately adjacent to the service and/or loading area to which they pertain.
 2. Size. The total surface area of a sign or all signs affixed to any building and signs freestanding on the real property upon which such building is located shall not be more than ten percent (10%) of the total area of the building face in square feet. However, an additional two percent (2%) shall be allowed where the building fronts on two public rights-of-way or fronts on a public right-of-way or fronts on a public right-of-way and a parking lot at the side of the building which contains a customer entrance and ten (10) or more customer parking spaces for the business in question. In such exceptions, the total surface area of the sign or signs shall not exceed twelve percent (12%) of the

total face of such building fronting on the public street designated as its official address.

- a. Freestanding signs. Allowable freestanding signs shall not extend to a height above the roof, eave or second floor level of the building to which they pertain, whichever is the least of these three (3) heights above the ground level, and shall be placed parallel to the street.
 - b. Exception as to size. Service or loading dock signs not exceeding ten (10) square feet in area are permitted.
3. Lighting. Any sign may be illuminated, but only by a steady, non-flashing internal or external light suitably shielded so as to eliminate glare and annoyance to passers-by or adjacent property.
 4. Covered walkways. In connection with a Class 1 building, where it is practical to construct a covered walkway in connection therewith on private property, the provisions of Class 2 buildings related to signs shall apply.
- C. Class 2 Buildings. Business signs shall be permitted to be erected, constructed, relocated or created in Class 2 buildings in B1, B2 and I1 Districts as follows:
1. Location.
 - a. Building face. Permitted signs may be located on the face of a building or buildings fronting on a common parking area, provided that they do not project more than twelve (12) inches from the building wall.
 - b. Covered walkway. Where a covered walkway extends across the front of a building or buildings, signs may be mounted on the roof of the walkway or walkways to a height of three (3) feet. Signs may also be hung from the underside or ceiling of the covered walkway related to the entrance of individual business establishments.
 - c. Building side and face. Signs may be placed on the side, face or wall of a business establishment. They may not project more than twelve (12) inches from such side, face or wall.
 2. Size.
 - a. Percentage of building face. Unless otherwise specifically stated, the total surface area of a sign or signs devoted to a specific business establishment shall not be more than eight percent (8%) of the total area of the building face in square feet of the building in which such business establishment is located, except that an additional four percent (4%) shall be allowed where the building faces on an additional public street or public parking area and where such building face contains a customer entrance. In such case, the total sign area shall not exceed twelve percent (12%) of the sum of the applicable building faces in square feet.
 - b. Exception as to total size. A sign not exceeding ten (10) square feet designating a service or loading dock is permitted.
 3. Lighting. Any sign may be illuminated, but only by a steady, non-flashing light, internal or external, suitably shielded so as to eliminate glare and annoyance to passers-by or adjacent property.
 4. Freestanding signs. A freestanding sign stating the name of the business or industrial establishment or shopping plaza may be erected or signs relating to specific business establishments may extend above the roofline if after

consideration by the Planning Board as to size, location and height, the Board states, in writing, to the Board of Trustees that such vertical extension or separate sign is in harmony with the general architectural design of the center as a whole and the Board of Trustees by resolution directs the Building Inspector to issue a permit for the requested sign, as approved and/or modified by the Planning Board and/or the Board of Trustees.

D. Gasoline service stations.

1. Location.

- a. Building face. Permitted signs may be located on the face of a building or buildings fronting on a common parking area, provided that they do not project more than twelve (12) inches from the building wall.
- b. Pump area. Permitted signs may be located in the pump area, not to exceed more than one (1) foot on either side of the row of pumps or two (2) feet from the last pump on each end of the pump row. No signs will be permitted to extend more than eight (8) feet above the base of the pumps.
- c. Prohibition. No signs shall be permitted on gasoline service station premises, except on the building face or in pump areas, except as hereinafter provided.

2. Size.

- a. Percentage of building face. Unless otherwise specifically stated, the total surface area of a sign or signs devoted to a specific business establishment shall not be more than eight percent (8%) of the total area of the building face in square feet of the building in which such business establishment is located, except that an additional four percent (4%) shall be allowed where the building faces on an additional public street or public parking area. In such case, the total sign area shall not exceed twelve percent (12%) of the sum of the applicable building faces in square feet.

3. Freestanding sign. At a gasoline service station, in addition to the signs herein permitted to be affixed to a building, there may be erected one (1) freestanding, non-revolving sign not exceeding thirty-seven and one-half (37 ½) square feet in area on each side with the top tip of such sign not more than nineteen (19) feet above the ground.

4. Illumination. No illumination shall be allowed in gasoline service station signs when the station is closed.

- E. Additional accessory signs. At the entrance of the buildings with business establishments above the first floor, nameplates of uniform design and appearance at each such building and not more than eighteen (18) inches in length and nine (9) inches in height may be mounted at the sides of such entrance, provided they are placed flat against the exterior masonry wall.

- F. Illuminated tubing restriction. Any illuminated tubing which is not used in the actual construction composing a conforming electrical sign and which outlines a building, fence or other similar structure or part thereof which measures longer than twenty (20) linear feet or encloses any area greater than twenty (20) square

feet may not be erected so as to be visible from any public or private street or highway or shopping center.

§84.10 Temporary and Special Purpose Signs

- A. Notices. No notices shall be posted on public property within the Village of Gowanda except on bulletin boards maintained by the Village or other governmental authority for that purpose.
- B. Banners. No banners shall be displayed over any sidewalk, village street or highway, except temporary banners for a period not to exceed thirty (30) days and for which a permit has been issued by the Code Enforcement Officer. A public liability bond or policy in the sum of at least fifty thousand dollars (\$50,000.00) may be required for each banner which extends across a sidewalk, street or highway. Such banner must be securely fastened to buildings or structures, provided, however that any banner installed/removed by the Village of Gowanda at the request of a third party shall be removed no later than fourteen (14) days after the date of installation.
- C. Temporary signs. Temporary signs may be permitted by the Building Inspector for a period not to exceed thirty (30) days. The application for a permit for such temporary sign must specify the size of the sign or signs, the number of signs to be erected and the proposed location of the sign and must guarantee the removal of such signs at the end of the permit period. A public liability bond or policy in the sum of at least fifty thousand dollars (\$50,000.00) may be required for each such temporary sign which extends across a sidewalk, street, highway or other public property provided, however, that no permit shall be required for a "FOR SALE," "FOR RENT," or "SOLD" sign as provided for in Section 84.10.1.
- D. Construction signs. Construction signs displaying the names of the architect, engineer, principal contractor and other participants engaged in the work of constructing a building or structure, as well as a sign announcing the purpose of the building or structure for which a building permit has been issued and has not expired, is permitted subject to the following conditions:
 - 1. Single, multi-listing signs. A single sign, not exceeding twenty-five (25) square feet in area covering all of the participants named above may be erected and maintained for the period beginning with the excavation and ending with the completion of the construction of any building.
 - 2. Individual signs of participating architects, engineers and contractors. A separate sign not exceeding six (6) square feet in area for each principal in the project may be erected and maintained during the period of said principal's participation in the project.
 - 3. Special purpose building announcement sign. A single sign announcing the purpose of a building or structure may be erected and maintained for a period not to exceed one (1) year. Such sign shall:
 - a. Not exceed twenty-five (25) square feet in area.
 - b. Not more than seven (7) square feet in area.

- c. Be mounted on post supports.
- E. Off-Premises Signs: Churches or other nonprofit organizations must apply for a permit per 84-6 for off premise signs. The permit must be approved by the Planning Board. When the proposed sign involves the road right-of-way written consent of New York State DOT must occur before the permit can be approved. The sign must be in keeping with 84.1.
- F. Village Entrance Signs. The Village will erect and maintain blank chain-link sign backing supported by steel posts at the major entrances to the Village. The purpose of the Village entrance signs is to coordinate placement of signs used to identify various civic and not-for-profit organizations active in the Village. Upon requesting and receiving permission from the Village Highway Superintendent, it will be the responsibility of each organization to attach their signs to the backing. The signs may be round, not more than thirty (30) inches in diameter, or rectangular, not more than twenty (20) inches wide by not more than thirty (30) inches high. The signs will be used on a space available basis and on a first come, first serve basis. Placement of new signs should not require relocation of existing signs without permission of the sign owner. It is the responsibility of each active organization to maintain their own signs in appropriate fashion for attachment and repair.

§84.10.1 "For Sale," "For Rent," and "Sold" Signs

- A. One non-illuminated "For Sale," "For Rent," or "Sold" sign may be permitted on any premises to which such sign pertains. Such sign shall be parallel with the street line.
- B. Such signs shall not be revolving, moving, fluttering or flashing.
- C. No such sign shall be erected in such a manner as to obstruct free egress from a window, door or fire escape, or in such a manner as it can become a menace to life, health or property.
- D. "For Sale" and "For Rent" signs are permitted for the length of time the property is available for purchase or rental. "Sold" signs are permitted for seven (7) days from the date of transfer of the property.
- E. The square foot area of such sign shall not exceed the following: In any "R1, R2, R3 and B2" zoning districts. The maximum allowable sign area is four (4) square feet. In any B1 and I1 zoning districts. The maximum allowable sign is twelve (12) square feet.

§84.11 Exceptions

- A. Signs in Planned Unit Development Areas. Each sign proposed in a "Planned Unit Development area must be permitted per 84.4. Each sign permit must be reviewed and approved by the Village Planning Board on a case-by-case basis.

This is to ensure that sign is within both the overall intended use of the "Planned Unit Development" and the overall architectural character of the Village and the Village Master Plan.

- B. Awning signs. Advertising containing only the name of the owner or the name of the business may be placed upon the valance of an awning, which lettering shall not exceed six (6) inches in height. The bottom of the valance shall not be less than seven (7) feet above the sidewalk.
- C. Lighting reflection signs. Hoods or shields for lighting reflection signs may be attached to buildings or structures, provided such hoods or shields do not extend more than twelve (12) inches beyond the face of the building or sign; and reflection lights on projecting arms for lighting such signs are permitted, providing such projecting arms do not extend for more than two (2) feet beyond the face of the building or sign.
- D. Marquees. Marquees will be permitted as approved by the Planning Board.
- E. Parking lot marking and signing. Public directional signs related to traffic or the regulations of private parking lots are permitted, subject to the approval of the Building Inspector.
- F. Specialty signs. Special time and temperature signs with or without electrical lettering, special clock signs, special shopping plaza identification signs and other special signs of similar nature may be erected with the written permission of the Village Board of Trustees. Before the Village Board of Trustees shall act upon the approval or denial of any application for such permission, it shall cause a notice of a public hearing thereon to be published in the official newspaper of the Village of Gowanda at least ten (10) days prior to said hearing and shall cause a copy of said notice of hearing to be mailed to all those persons as shown to be the owners of property within five hundred (500) feet of the site upon which the proposed special sign is to be erected. Said notice of hearing shall be mailed to said property owners at least five (5) days prior to said hearing. The Village Board of Trustees in considering said application as a condition of the granting of written permission to erect such a special sign shall first determine that all applicable statues and ordinances as to public safety have been met and will be met upon the granting thereof and shall further consider whether the general welfare, health and safety of the residents of the Village shall be affected by the granting of such permission, considering, among other pertinent matters, pedestrian and vehicular safety, sign density, the general nature of the neighborhood, the nature of other permitted signs in the neighborhood and the relative size of the proposed special sign and the other structures in the area. In case written permission for such a special sign is given by the Village Board of Trustees, the said Village Board may impose conditions in connection therewith. The applicant for such written permission shall pay all costs of publications of the notice of hearing.

§84.12 Non-Conforming Signs

- A. Inspection. Following 10-26-2004, the Building Inspector shall make or cause to be made an inspection and evaluation of all existing signs covered by this local law. The record owners of all business establishments with signs which do not conform to these regulations shall be notified by certified mail, stating how the existing sign violates the law. The Building Inspector shall keep a copy of such letters and record of the date notified.
- B. Non-conforming signs. All non-conforming signs designated under §84.12 which were in use prior to 10-26-2004, may continue in use as legal non-conforming signs.
- C. Repair and maintenance. Nothing herein shall be deemed to prevent keeping a non-conforming sign in good repair and in a safe condition. Any legal non-conforming sign which is removed from the position it occupied on 10-26-2004, for the purpose of repair and maintenance and restored to such original position within thirty (30) days after such removal may continue in use as a legal non-conforming sign.
- D. Change of text. The lettering and pictorial matter comprising a legal non-conforming sign may be changed, provided that the dimensions and location of said non-conforming sign are unchanged, and provided that a permit therefore is obtained as required by §84.2, and provided that such changed lettering and pictorial matter directly relates to the sale of goods or services rendered on the property as required by §84.4.

§84.13 Old and Historic Districts

All signs to be located in the Old and Historic Gowanda district shall be approved by the Village of Gowanda Planning Board in accordance with the provisions of this Local Law. Notwithstanding any other provisions of this Local Law, the Planning Board, in approving a sign, may further regulate such sign with respect to area, height, placement, materials, color, lighting, graphics, lettering or architectural styling.

§84.14 Enforcement

At the termination date of the legal status of any sign or of any violation related to a sign erected or relocated after the effective date of this local law, such violation must be corrected or the sign removed, or such sign shall be subject to removal as set forth in §84.17 of this Local Law. Cost connected therewith shall be assessed against the owner of the premises.

§84.15 Variances

- A. The Zoning Board of Appeals, subject to such conditions as it may deem necessary in the public interest and after public notice and hearing, may vary or modify the application of the Sign Law and follows:
 1. When circumstances peculiar to a particular property differentiate it substantially from adjoining properties to permit variations in the strict application of this local law, provided any sign or signs so permitted shall not exceed in the aggregate the area requirements permitted herein.
 2. Approve the issue of a special permit or permits for the erection of not to exceed two (2) additional signs, provided:
 - a. Each such sign shall be on a wall of the principal building facing upon a public or private off-street parking area.
 - b. Each such sign shall be a replica of the sign facing on the principal street and shall not be more than sixty percent (60%) of the size of such principal sign.
 - c. If two (2) such additional signs are permitted under special permits issued either simultaneously or at different times, such additional replica signs shall be identical in size and working as in Subsection A(2)(b) above.
- B. The foregoing variance powers shall not be deemed to limit the general variance powers of the Zoning Board of Appeals allowed provided for in the Village Law of the State of New York and Zoning Ordinances of the Village of Gowanda and shall be deemed in addition thereto.

§84.16 Safety Provisions

- A. No sign shall be erected in such a manner as to obstruct free egress from a window, door or fire escape or so as to become a menace to life, health or property.
- B. All signs affixed to any wall, building, post pedestal or other support shall be securely fastened thereto and shall be subject to inspections by and approval of the Building Inspector as to safety.
- C. All wiring, fillings, materials and electrical or other installation or illuminated or lighted signs shall be subject to inspection by and approval of the Building Inspector as to safety.

§84.17 Unsafe and Unlawful Signs

- A. Whenever the Building Inspector shall find that any sign regulated by this local law is unsafe or insecure or is in such condition as to be a menace to the safety of the public, he shall prepare a notice, in writing, advising as to the unsafe and insecure condition of such sign and directing the owner of the premises on which the sign is located to make alternations or repairs thereto or to do such things or acts as are necessary and advisable to make such sign safe and secure or remove said sign within three (3) days from the date of said notice and shall mail a copy of such notice on the same day as the date thereof to the owner of the

premises on which the sign is located to his address as shown on the assessment roll of the Village of Gowanda and shall file a copy of such notice in the Office of the Mayor on the same day. In the event that said sign is not made safe and secure or is not removed within the time specified in the notice, a survey of said sign shall be made by the Building Inspector and a practical builder, engineer or architect to be named by the Board of Trustees and a practical builder, engineer or architect appointed by the person notified as above and, in the event of refusal or neglect of the person so notified to appoint such surveyor, the two (2) surveyors named shall make the survey and report. The notice shall state that, in the event that the sign shall be reported unsafe and dangerous under such a survey, an application will be made at a special term of the Supreme Court in the judicial district in which the sign is located, nor less than five (5) nor more than ten (10) days thereafter, for an order determining the sign to be a public nuisance and directing that it shall be repaired and secured or taken down and removed. A copy of the report of survey sign by the surveyors and a copy of the notice that a application will be made at a special term of the Supreme Court for an order determining the sign to be a public nuisance and directing that it shall be repaired or secured or taken down and removed, duly signed by an officer designated for that purpose by the Board of Trustees, shall be posted conspicuously on the premises. The surveyors named pursuant to the provision of this section to make a survey of the sign shall be compensated by the Village of Gowanda upon vouchers properly presented. All costs and expenses incurred by the village in connection with the proceeding specified in this section to remove or secure said sign, including the cost of actually removing said sign, shall be paid by the owner or owners or said sign or other interested party promptly on demand being made therefore and may be assessed upon the premises involved provided, however, that nothing herein contained shall prevent the Building Inspector from adopting such precautionary measures as may be necessary or advisable in case of imminent danger to place such sign in a safe condition, the expense of which shall be paid by the owner of the premises upon which said sign is placed.

- B. Whenever the Building Inspector shall find that any sign regulated by this local law is in violation of any of the provisions of this local law and/or is being erected, constructed, relocated or created without a permit as required by §84.2 of this local law, he shall prepare a notice, in writing, advising as to violation of this local law and directing the owner of the premises upon which the sign is located to remove said sign within seven (7) days from the date of said notice and shall mail a copy on the same day as the date thereof to such owner of the premises upon which the sign is located to his address as shown on the assessment roll of the Village of Gowanda and shall file a copy of such notice in the office of the Mayor on the same day. In the event that said sign is not so removed within the time specified in the notice, the Mayor shall cause an action to be brought in a court of competent jurisdiction for an order directing the removal for such sign and fiord the imposition of the penalties prescribed by §84.19 of this local law.

- C. In the event that the premises upon which any sign is maintained is vacated, the owner of such premises shall forthwith remove such sign from such premises. In the event of a violation of this subsection of this local law, the Mayor shall take such action as is prescribed by this section and §84.18 of this local law to cause the sign so found to be in violation of this subsection to be removed. The expense of such removal shall be assessed against the land and/or building on which such sign is located.
- D. Any sign determined to be a safety hazard, traffic hazard or otherwise unsafe by the Village of Gowanda or the New York State Department of Transportation.

§84.18 Revocation of Permit

The Building Inspector may at any time for a violation of this local law revoke any sign permit. Notice of such revocation and the reason or reasons therefore, in writing, shall be served by the Building Inspector upon the owner of the premises on which the sign is placed by mailing the same to his address as shown on the assessment roll of the Village of Gowanda and by filing a copy of said notice immediately in the office of the Mayor. Any person aggrieved by any such revocation of a sign permit by the Building Inspector may bring a proceeding to review in the manner provided by *Article 78 of the Civil Practice Law and Rules*. Such proceedings must be commenced within thirty (30) days after the filing of the notice of revocation in the office of the Mayor.

§84.19 Penalties for Offenses

Any neglect, failure or refusal to comply with any provisions of this local law shall be deemed a violation thereof, and any person who shall so violate any provisions of this local law, in addition to any other penalties prescribed by law or ordinances, shall upon conviction thereof, be punished by fine or not more than fifty dollars (\$50.00) for each offense. Each and every day that such violation shall continue shall constitute a separate offense.

§84.20 Severability

The validity of any part, clause, section or provision of this local law shall not invalidate any other part, clause, section or provision thereof.

§84.21 Interpretation

This local law is applicable only to the incorporated area of the Village of Gowanda, New York, and shall be construed as an exercise of the powers of such village to regulate, control and restrict the use of buildings, structures and land for outdoor advertising purposes, displays, signs or other advertising media in order to promote the health, safety, morals or general welfare of the community, including the protection and preservation of the property of the village and its inhabitants and of peace and good order, for the benefit of trade and all other matters related thereof.

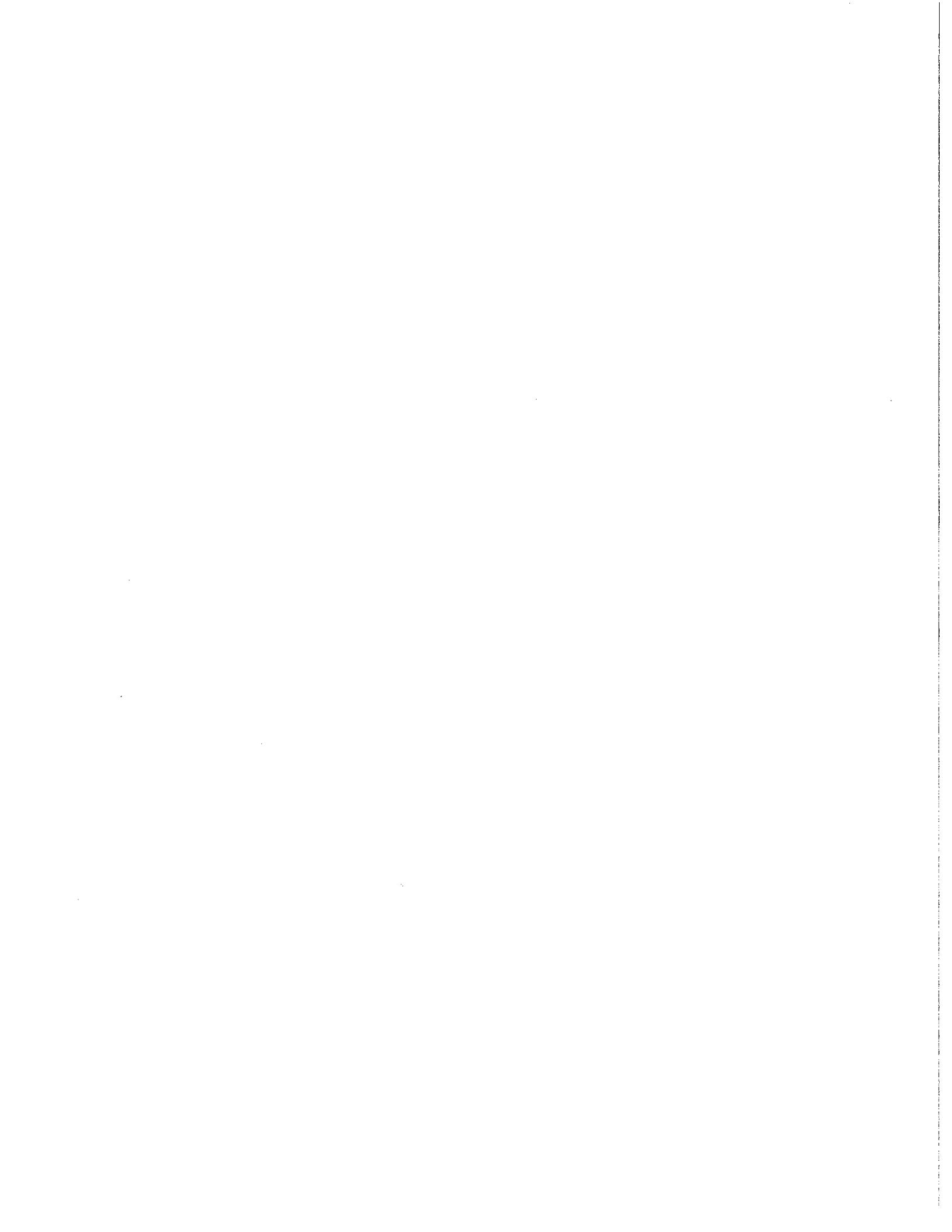
All signs for which permits were issued prior to the adoption of this local law may be continued although not in conformity therewith, subject to the provisions of this local law.

§84.22 Short Title

This local law shall hereafter be known and cited as the "Sign Law."

§84.23 When Effective

This local law shall take effect immediately. This local law may be amended by resolution of the Village Board.



INDEX

**REFERENCES ARE TO SECTION NUMBERS UNLESS
OTHERWISE INDICATED**

**ALWAYS CONSULT INSTA-SUPP INDEX
FOR ANY RECENT CHANGES**

INDEX

A

Acrobatic Exhibition; License Required. §16.21

Air Conditioning

Multiple dwellings. §27.32

One and two family dwellings §27.31

Alcoholic Beverages

Consumption in public places. §65. 21 et seq.

Open containers prohibited §65.21

Exceptions. §65.22

Advertising on Sidewalks, etc. §44.51

Alms; Solicitation of. §65.6

Alteration of Code; Prohibited. §1.7

Ambulances. Chapter 21

Application for license; information required. §21.2

Definitions. §21.1

License Required. §21.3

Application. §21.3

Fee; term. §1.5

Standards for ambulance services. §21.4

Attendant required in addition to driver. §21.4(C)

Drivers must have completed first aid course. §21.4(A)

Compliance with all applicable laws, rules, regulations. §21.4(F)

Equipment. §21.4(D)

Fee schedule; approval by board of trustees. §21.4(E)

On call 24 hours. §21.10

Violations and penalties. §21.10

Amusements; Licensing of. §16.21 et seq.

Animals, Chapter 54

- Animals and fowl running at large. Article I, §54.1 et seq.
 - Certain animals and fowl not to run at large. §54.1
 - Disposal of unredeemed animals or fowl. §54.4
 - Records. §54.5
 - Seizure of animals or fowl. §4.2
 - Disposal of. §54.4
 - Redemption of. §54.3
- Dog Control. Article II, §54.31 et seq.
 - Appearance tickets. §54.37(2), (3)
 - Certain dogs not to run at large. §54.32
 - Complaints; procedure for. §54.37
 - Definitions. §54.31
 - Disposal of seized dogs. §54.37
 - Dog control officer. §54.38
 - Habitually barking dog. §54.33
 - Prohibited acts of dog. §54.34
 - Running at large prohibited. §54.32(A)
 - Seizure of dogs. §54.35; disposal of. §54.36
 - Violation, notice of. §54.3(A)
- Dog Control Officer. §54.38
- Domestic animals and pets. §27.41
- Fastening to public property prohibited. §44.16
- Hitching to trees prohibited. §44.62
- Penalties. §54.50
 - Dogs. §54.50(A)
 - Other animals and folw. §4.50(B)
- Poultry and pigeons. Article IV, §54.41 e seq.
 - Keeping of. §54.41
 - Pigeons. §54.41
 - Poultry §54.42
- Town justice; authority of. §54.39

Automobile Parking Space. §30.24 (E)

Awnings. §44.10

B

Beverages; open containers prohibited. §65.21
Exceptions. §65.22

Bill Posting; See Article V, Chapter 44. (See Streets and Public Places)

Billboards. §44.52 (See Streets and Public Places)

Bingo, Chapter 12

- Authorized organizations to conduct game. §12.2
- Prizes. §12.3
- Purpose. §12.1
- Restrictions upon conduct of game. §12.3
 - Authorized licensees only may conduct. §12.3(1)
 - Leases; may not be on a percentage of receipts. §12.3(2)
 - Limited period bingo. §3(10)
 - Management. §12.3
 - Prizes. §12.3(5), (6), (7)
 - Proceeds; use of. §12.3(4)
 - Remuneration prohibited. §12.3(8)
 - Supplies and equipment from authorized supplier only. §12.3(3)
- Sunday games. §12.9
- Unauthorized games; misdemeanor. §12.3(9)
- Village clerk, delegation of authority to issue licenses, etc. §12.5

Board of Appeals (see also Zoning)

- Dwellings on undersized or corner lots. §30.39
- Enforcement of zoning. §30.44
 - Notice of appeal. §30.44(A)
 - Powers and duties. §30.44(B)
- Uses approved by. §30.27

Board of Trustees (see also specific chapters)

- Ambulance; approve fee schedule. §21.4(E)
- Billboard; approval of. §44.52
- Fire prevention code; approve rules and regulations. §55.4;
 - Permit fees, sets. §55.5
- Garbage collection schedules. §72.9
- Indemnity bonds. §44.71
- Peddlers and solicitors; appeals to. §17.6(B)
- Planned development districts. §30.28
- Poles, posts, etc., permission to place. §44.21
- Plumbers. §45.10
- Sanitary landfill. §72.10
- Sanitary sewer user charge system; appeals to. §46.110
- Subdivision regulations; final approval. §31.7
- Subdivision plat approval. §31.7
- Taxicab licenses; appeal to for denial. §23.11
- Unsafe buildings. §33.5
- Village Administrator, approve appointments. §5.2; executive assistant of Board.
 - §5.3; effect on powers of Board. §5.7; supervision by board. §5.4, §5.5
- Water, limit amount, when circumstances warrant. §5.3(20)
- Water service; make application to. §45.3(7); termination, appeal §45.7(D)
- Wires and poles. §44.21

Bonds (see also specific chapters)
Agreement in lieu of. §44.74
General bond. §44.73
Indemnity for work on streets. §44.71 et seq.
Peddlers and solicitors. §17.5; required §17.8
Penalty of. §44.72

Building Code Enforcement (See Uniform Code Enforcement, *infra*)

Building Inspector (See also Uniform Code Enforcement and Zoning)

Acting building inspector. §26.23
Building permits. §26.31, §30.2
Deputies. §26.22
Certificate of occupancy. §26.41, §30.43
 Temporary. §26.44
Designation of, as public official. §26.21
Fire prevention code inspector, §55.3
Flood hazard prevention.
 Duties and responsibilities of. §34.4.3
 Enforcement officer. §4.4.1
Housing code. §27.84 et seq. (see also Housing Code)
Permits, revocation. §26.35
Powers and duties of. §26.25, §30.41
Stop orders. §26.36
Uniform code. §26.21 et seq.
Unsafe buildings.
 Duties of building inspector. §33.4
 Emergency cases. §43.7
Zoning. §3.4
 Approve applications. §30.41(1)
 Inspections. §30.41(2)
 Records. §30.41(4)
 Special use, variances and amendments. §30.41(3)

Building Permits. §26.31 et seq. §30.42
Fees. §26.34(A); refund. §26.34(F)

Building; Moving. §44.19

Businesses and Occupations; Licensing of. Chapter 16 (See specific titles; Licensing of Business and Occupations)

Business Tax Exemption. Chapter 82 (See also, "Tax Exemption for Eligible Business Facilities," *infra*.)

C

Carnivals, Circuses, etc.; Licensing of. §16.21

Certificates of Occupancy. §26.41 et seq., §30.43 (See Uniform Code Enforcement and Zoning)

Chief of Police

Parades, etc. §60.61(12)

Parking zones; authority to provide for. §60.61(9)

Regulate traffic. §60.61

Signs, erected for overhead clearance. §60.61

Chimneys, Flues, Gas Vents. §27.27

Code (See General Provisions)

Code of Ethics. Chapter 4

Conduct, standards of. §4.3

Employment, future. §4.3(G)

Private. §4.3(F)

Gifts. §4.3(A)

Information, confidential. §4.3(B)

Investments in conflict with duties. §4.3(E)

Representation. §4.3©, (D)

Before any agency for a contingent fee. §4.3(D)

Before one's own agency. §.3©

Definitions. §4.2

Distribution of. §4.5

Penalties §4.6

Personal claim not prohibited. §4.4

Purpose. §4.1

Concessions and Refreshment Stands; Licensing of. §16.21

Continuity of Government (See Government, Continuity of)

Curfew. Article VI, §65.61 et seq.

Minor persons under 18 years. §65.61

Detention of. §65.65

Parent or guardian; responsibility of. §65.62

Liable to prosecution. §65.64

Police to enforce. §65.63

- Violation of article; penalties. §65.69
 - Children under 7 years of age. §65.69(A)
 - Children between 7 and 16 years of age. §65.69(B)
 - Children 16 years of age and over. §65.69(C)
 - Children under 16 years of age. §65.69(D)

D

- Damaged, Dismantled, Inoperable Vehicles. Chapter 28
 - Damaged, defined. §28.2(4)
 - Definitions. §28.2
 - Dismantled, partially; defined. §28.2(4)
 - Exceptions. §28.3(B)
 - Repair service. §28.3(B)[1]
 - Temporary not exceeding 30 days. §28.3(B)[2]
 - Inoperable defined. §28.2(6)
 - Legislative findings. §28.1
 - Prohibition; exceptions. §.3
 - Violations and penalties. §28.4

- Definitions (See also Specific Titles)
 - Code. §1.2

- Demolitions. §26.31(D)

- Dog Control. §54.3 et seq. (See also Animals)
 - Barking, habitual. §54.33
 - Complaints, procedure. §54.37
 - Definitions. §54.31
 - Dog control officer; powers and duties. §54.38
 - Impoundment of dogs
 - Disposal of seized dogs. §54.36
 - For violation of Article. §54.35
 - Penalties for violation. §54.50
 - Prohibited acts. §54.34
 - Running at large; prohibitions. §54.32, §54.32(A)
 - Town justices, authority. §54.39
 - Violation of Article.
 - Impoundment of dogs. §54.35
 - Penalties for. §54.50(A)

E

Electrical Inspections (See Uniform Code Enforcement)

General requirements for housing. §27.29

Elevators, Dumbwaiters and Escalators in Multiple Dwellings §27.35

Emergency Interim Successors (See Government, Continuity of)

Employees; Defense and Indemnification of. Chapter 3, §3.1

Ethics. (See Code of Ethics)

Excavations in Public Streets (See Streets and Public Places)

Exits. §27.15, §27.29(C)

F

Fees

Building permit fees. §26.34

Circuses, carnivals, exhibitions and shows, etc. §16.22(C)

Exhibitions. §16.22(C)

Impounding fee for animals. §54.3(B)

Junkyards and junk dealers. §16.33

Merry go rounds. §16.22(C)

Parking. §60.54; violations. 60.11(B)

Public entertainment; lectures, etc. §16.22(C)

Sewage, disposal inspection fee. §46.32

Shooting galleries. §16.22(C)

Taxicabs. §23.7

Taxicab driver's license fees. §23.13

Theatrical performances. §16.22(C)

Vehicle removal fee. §60.81(B)

Storage per day. §60.81(B)

Fence

Advertising on prohibited. §44.53

Fence gates. §44.11

Swimming pools. §35.7

Fire Hydrants; Opening of Restricted. §45.7

Fire Places. §27.22

Fire Prevention. Chapter 55

Administration. §55.3

Building inspector to serve as fire prevention code inspector. §55.3(A)

Alternative appointee. §55.3(C)

Assistants. §5.3(B)

Applicability. §55.1

Dangerous buildings or structures; removal. §55.10

Costs and expenses, assessment of. §55.10(D)

Emergencies. §55.10(B)

Public nuisance. §55.10(A)

Vacating premises. §55.10(C)

Inspections. §55.6

Periodic. §55.6(A)

Refusal to admit; procedure. §55.6(B)

Penalties.

Failure to comply. §55.8(A)

Injunctive relief. §55.8(B)

Permits. §55.5

Activities for which permits required. §55.5(D)

Consolidated permits. §55.5(E)

Indefinite terms; limitations. §55.5(G)

Issuance. §55.5(A)

Location of permits. §55.5(F)

Nontransferable. §55.5(B)

Revocation of permits. §55.5(G)

Term; limitations. §55.5(C)

Records. §55.9

Review board; regional board of review to serve as. §55.11

Rules and regulations. §55.4

Fire prevention code inspector to adopt. §55.4(A)

Approval by board of trustees. §55.4(B)

Title. §55.2

Violations. §55.7

- Application to court. §55.7(E)
- Compliance with laws. §55.7(A)
- Violation orders; issuance. §55.7(B)
 - Contents. §55.7(C)
 - issuance. §55.7(B)
 - Service. §55.7(D)

Fire Prevention Code Enforcement Officer; Building Inspector to Serve as. Chapter 55, §55.3(A)

Fire Safety (See Public Safety)

Solid fuel heating appliances. §26.39

Fireworks Permits (See Public Safety)

Flood Damage Protection. Local Law #1 of 2019

- Accessory Structures Including Detached Garages 5.6 Page 24
- Administration. 4.0 Page 10
 - Fees 4.2-2 Page 11
 - Application for a Permit 4.3 Page 11
- Anchoring. 5.2-1 Page 18
- Appeals board. 6.1 Page 24
- Basis for establishing the areas of special flood hazard. 3.2 page 8
- Certificate of compliance. 3-8 Page 15
- Construction materials and method. 5.2-2 Page 18
- Construction standards 5.0 Page 16
 - Subdivision Proposals 5.1-1
 - Encroachments 5.1-2
- Definitions. 2.0 Page 2
- Development permit; 4.2 Page 10
 - Application for Permit 4.3 Page 11
- Encroachments. 5.1-2 Page 17
- Findings. 1.0 Page 1
- General provisions. 3.0 Page 8
- General standards. 5.1 Page 16
- Inspections. 3.3 Page 9
- Interpretation, conflict with other laws. 3.3 Page 9
 - Local administrator. 4.4 Page 12
 - Permit Application Review 4.1-1
 - Use of Other Flood Data 4.4-2
 - Alteration of Watercourses 4.4-3
 - Construction Stage 4.4-4
 - Inspections 4.4-5
 - Stop Work Orders 4.4-6
 - Certificate of Compliance 4.4-7
 - Information to be Retained 4.4-8

Manufactured Homes and Recreational Vehicles 5.5 Page 23
Nonresidential Structures 5.4 Page 21
Objectives. 1.3 Page 2
Penalties for noncompliance. 3.5 Page 9
Purpose; statement of. 1.2 page 1
Residential Structures 5.3 Page 21
Severability. 3.4 Page 9
Stop work orders. 4.4-6 Page 15
Storage Tanks 5.2-4 Page 20
Subdivision proposals. 5.1-1
Utilities. 5.2-3 Page 19
Variances. 6.2 Page 26

G

Games of Chance. Chapter 13

Authorized. §13.3
Definitions. §13.2
Purpose. §13.1
Sunday games. §13.4

Garbage of Refuse. Chapter 72.

Collection schedules. §72.9
Definitions. §72.2
Disposition of garbage and trash. §72.3
 Accumulation on private property restricted. §72.3(B)
 Depositing on streets prohibited. §72.3(A)
Dumping inside village; exception as to ashes. §72.4
Housing code requirements. §72.40
Independent contractors; or municipal service. §2.10
Mobile homes. §27.62(B)
Parks. §41.3(5)
Penalties. §72.20

Property owners, regulations for. §72.20

 Incinerators or garbage disposal, devices. §72.5(A)
 Prohibited accumulations. §72.5(B)

Receptacles, required. §72.6

 Exceptions. §72.7
 Placing of. §72.8
 Use of. §72.7

Sanitary landfill of village; rules and regulations. §72.10

Service for village residents and premises only. §72.11
Title. §72.1

General Provisions, Chapter 1

- Alteration unlawful. §1.7
- Annotations. §1.8
- Conflict with other provisions. §1.9
- Definitions contained in code. §1.2
- Interpretation. §1.15
- Penalty, when not otherwise prescribed. §1.10
- Repeal of ordinances, local laws. §1.4
- Repeal of Chapters in code. §1.5
- Rules of construction. §1.3
- Unconstitutionality or illegality, effect of. §1.6

Government, Continuity of. Chapter 2

- Assumption of powers and duties of officer by emergency interim successor. §2.4
- Definitions. §2.2
- Designation of emergency interim successors. §2.3
 - Appointive officers. §2.3(B)
 - Compensation §2.3(F)
 - Elective officers §2.3(A)
 - Qualifications. §2.3(D)
 - Review of designations. §2.3(C)
 - Status of emergency interim successors. §2.3(E)
- Intent. §2.1
- Public disaster; defined. §2.2(2)
- Qualification for taking office. §2.6
- Quorum and vote requirements. §2.7
- Recording and public of designations. §2.5

Gifs to Village Officer or Employee. §4.3(A)

Grass and Weeds (See also Streets and Public Places)

- Private property; control of. §44.2
- Cutting every two weeks. §44.42(B)

H

Hawkers (See Peddlers and Solicitors)

Health Officer

Sanitary sewers, private; impose requirements. §46.37

Heating. §27.26

Housing Code. Chapter 27

Administration and compliance.

General provisions. §27.81 et seq.

Non-applicability of article. §27.83

Purpose. §27.81

Scope. §27.82

Administrative agency. §27.84

Building inspector. §27.84

Assistants. §27.84(B)

Personal liability. §27.84(D)

Powers and duties. §27.85

Administration. §27.85(A)

Cooperate with other agencies. §27.85©[7]

Inspections, generally. §27.86

Investigations, §27.85(C)[2]

Orders to make. §27.85(C)[3]; (D)

Legal action, request. §27.85(C)[4]

Qualifications. §27.84(C)

Records, keeping of. §27.87

Report, annual. §27.85(C)[8]

Studies, make. §27.85(C)[6]

Survey, conduct. §27.85(B)

Animals and pets. §27.41

Compliance. §27.91 et seq.

Lodging house operators' responsibilities. §27.92

Occupants' responsibilities. §27.93

Owners' responsibilities. §27.91

Mobile homes and mobile home courts. Article II, §27.51 et. seq.

General provisions, Article II, Part 1, §27.51 et. seq.

Application. §27.53

Conflict with other regulations. §27.53(B)

Definitions. §2.56

New York State building construction code, reference to. §27.5, 27.54

Permit required. §27.55

Purpose. §27.51

Scope of article. §27.52

Supersession of other laws, ordinances. §27.53(A)

- Mobile homes. §27.57 et seq.
 - Design and construction. §27.58
 - Body and framing. §27.58(A)
 - Chassis. §27.8(B)
 - Placement. §27.58(C)
 - General requirements. §27.57
 - Design and construction. §27.57(A)
 - Exterior lighting. §27.57(E)
 - Maintenance. §27.57(F)
 - Overhead wires. §27.57(D)
 - Storm water drainage. §27.57(B)
 - Surfacing. §27.57(C)
 - Travel and vacation trailers. §27.57(G)
 - Light and ventilation. §27.60
 - Habitable space. §27.60(A)
 - Non-habitable space. §27.60(A)
 - Maintenance. §27.60
 - Extermination. §27.62(D)
 - Flammable material. §27.62(E)
 - Garbage and refuse. §27.62(B)
 - Interior. §27.62(A)
 - Screening. §27.62(C)
 - Mechanical systems and equipment. §27.61
 - Cooking and refrigeration. §27.61(D)
 - Electrical. §27.61(C)
 - Heating, ventilation, etc. §27.61(B)
 - Plumbing. §27.61(A)
 - Space requirements. §27.59
 - Bathrooms and toilet rooms. §27.59(C)
 - Exits. §27.59(E)
 - Height of habitable space. §27.59(B)
 - Maximum occupancy. §27.59(A)
 - Prohibited uses. §27.59(D)
- Mobile home courts. §27.63 et seq.
 - Community areas. §27.66
 - Community fuel storage. §27.68
 - Fuel oil. §27.68(B)
 - Liquefied petroleum gas. §27.68(A)
 - Community structures. §27.67
 - General requirements. §27.63
 - Design and construction. §27.63(A)
 - Exterior lighting. §27.63(E)
 - Maintenance. §27.63(F)
 - Overhead wires. §27.63(D)
 - Storm water drainage. §27.63(B)
 - Surfacing. §27.63(C)

- Mobile home lots. §27.65
 - Accessory structures. §27.65(B)
 - Mobile home stand. §27.65(A)
 - Patios. §27.65(C)
 - Storage lockers. §27.65(D)
 - Utility connections. §27.65(E)
 - Property maintenance. §27.69
 - Brush and weed control. §27.69(C)
 - Domestic animals and pets. §27.69(G)
 - Garbage and refuse. §27.69(F)
 - General. §27.69(A)
 - Infestation. §27.69(D)
 - Premises. §27.69(B)
 - Structures. §27.69(E)
 - Utilities. §27.64
 - Electrical system. §27.64(G)
 - Gas piping system. §27.64(F)
 - Private sewage disposal system. §27.64(E)
 - Private water system. §27.64(C)
 - Sewage disposal system. §27.64(D)
 - Water, sewage, gas and electricity. §27.64(A)
 - Water supply system. §27.64(B)
- Penalties. §27.100
- Residential premises. Article I, §27.1 et seq.
 - Access and vertical travel between stories. §27.14
 - Applicability. §27.4; non-applicability. §27.3
 - Conflict with other laws or codes. §27.4(B)
 - Definitions. §27.6
 - Equipment requirements. Part 5, §27.23 et seq.
 - Air conditioning and ventilation. §27.31, §27.32
 - Multiple dwellings. §27.32
 - Air intake and exhaust openings. §27.32(C)
 - Refrigerants. §27.32(A)
 - Safety controls. §27.32(E)
 - Ventilating systems. §27.32(B)
 - Ventilating requirements. §27.32(D)
 - One and two family dwellings. §27.31
 - Ducts. §27.31(B)
 - Exhaust air. §27.31(A)
 - Chimneys, flues and gasvents. §27.27
 - Fire safety. §27.27(B)
 - General requirements. §27.27(A)
 - Spark arrestors. §27.27(C)
 - Cooking and refrigeration. §27.30
 - Communal cooking and dining rooms. §27.30(B)
 - General requirements. §27.30A)

- Electrical. §27.29
 - Artificial lighting. §27.29(B)
 - Exit and directional signs. §27.29(C)
 - General requirements. §27.29(A)
- Elevators, dumbwaiters, etc. §27.35
 - Elevator cars, signals. §27.35(C)
 - Maintenance. §27.35(A), (D), (E)
 - Safety devices. §27.35(F)
 - Signs for dumbwaiters. §27.35(B)
- Fire protection in multiple dwellings. §27.34
 - Fire alarm systems. §27.34(A)
 - Portable extinguisher. §27.34(D)
 - Sprinkler equipment. §27.34(B)
 - Standpipe systems. §27.34(C)
- Fuel gas. §27.25
 - Gas refrigerators and ranges. §27.25(D)
 - General requirements. §27.25(A)
 - High pressure gas. §27.25(E)
 - Liquefied petroleum gas. §27.25(F)
 - Service equipment for gas supplied from utility main. §27.25(C)
 - Shut-off valves. §27.25(B)
- Fuel oil. §27.33
 - General requirements. §27.33(A)
 - Piping. §27.33(C)
 - Storage tanks. §27.33(B)
- General requirements. §27.23
 - Freezing. §27.23(B)
 - Moving parts. §27.23(C)
 - Safety standards. §27.23(A)
- Heating. §27.26 (see also fuel gas and fuel oil, this heading).
 - Air supply. §27.26(G)
 - Fuel supply connection. §27.26(E)
 - Installation. §27.26(F)
 - garages. §27.26(J)
 - General requirements. §27.26(A)
 - Removal of products of combustion. §27.26(H)
 - Safety devices. §27.26(I)
 - Smoke control. §27.26(B)
 - Warm air heating. §27.26(C)
- Incinerators. §27.28
 - General requirements. §27.28(A)
 - Service openings. §27.28(B)

- Plumbing. §27.24
 - General requirements. §27.24(A)
 - Plumbing facilities. §27.24(E)
 - Plumbing fixtures. §27.24(F)
 - Sewage drainage system. §27.24(C)
 - Storm drainage. §27.24(D)
 - Swimming pools §27.24(G)
 - Water supply. §27.24(B)
 - Tanks. §27.24(H)
- Exits. §27.15
- Fire safety requirements. Part 4, §27.19 et seq.
 - Fireplaces. §27.22
 - Interior finishes, etc. §27.21
 - Prevention of fire spread. §27.20
 - Prohibited accumulations. §27.19
- Maximum occupancy. §27.15
- Mobile homes and courts, non-applicability. §27.3
- New York State building construction code; compliance with. §27.5
 - Reference shall be deemed to be NYS Uniform Fire Prevention and Building Code. §27.5
- Property maintenance requirements. Part 6, §27.36 et seq.
 - Building and structures. §27.38
 - Domestic animals and pets. §27.41
 - Garbage and refuse. §27.40
 - General requirements. §27.36
 - Infestations and screening. §27.39
 - Open areas and fences. §27.37
- Purpose. §27.1
- Scope of article. §27.8
- Space requirements. Part 2, §27.7 et seq.
 - Classification of buildings. §27.8
 - General. §27.7
 - Habitable space. §27.11
 - Basements. §27.11(B)
 - Light and ventilation. §27.11(C)
 - Miscellaneous. §27.11(D)
 - Size. §27.11(A)
 - Maximum occupancy. §27.9
 - Non-habitable space. §27.13
 - Height. §27.13(A)
 - Light and ventilation. §27.13(C)
 - Toilet rooms and bathrooms. §27.13(B)
 - Prohibited uses. §27.10
 - Public space. §27.12
 - Height. §27.12(A)
 - Light and ventilation. §27.11(B)

Structural requirements. Part 3, §27.16 et seq.
Exterior protection. §27.17
General. §27.16
Interior protection. §27.18
Supersede local laws, ordinances, codes, etc. §27.4
Uniform code; applicability of. §27.5

Hydrants, Obstruction Near. §65.44

I

Incinerators. §27.28

Indemnity Bond. §44.71

Intersections; Visibility at. §30.34

Inspections (see Building Inspector and specific chapters)

J

Job Incentive Tax Exemption. Chapter 82
Application for exemption. §82.2
Effective date. §82.4
Percentage of exemption. §82.1
Village Assessor, duties of. §82.3

Junk Yards. §30.27(A)[2]
Licensing of. Chapter 16, Article III

K

L

Licenses

- Ambulances. §21.2 et seq.
- Chief of police to license processions, assemblages or parades. §.61(12)
- Circuses, carnivals, etc. §16.22
- Junk yards. §16.33
- Peddlers and solicitors. §17.3, §17.4, §17.6
- Taxicabs. §23.2 et seq.
- Taxicab driver's licenses. §23.9

Licensing of Businesses and Occupations. Chapter 16

- Amusements. Article II, §16.21 et seq.
 - Circuses, carnivals, exhibitions and shows. §16.21
 - Licenses and fees. §16.22
 - Fees. §16.22(C)
 - Information required. §16.22(B)
 - Issuance. §16.22(A)
- General provisions, Article I, §16.1 et seq.
 - Application and issuance of licenses and permits, contents. §16.(B)
 - Filing applications. §16.3(A)
 - Issuance of license. §16.3(C)
 - Numbering and dating of license. §16.3(D)
 - Display of license. §16.5
 - Issuing of licenses, general provisions. §16.2
 - Approval of bond. §16.2(C)
 - Bond. §16.2(B)
 - Filing of copies. §16.2(D)
 - Limitations and conditions. §16.2(A)
 - Scope of article. §16.1
 - Prepayment of fee and record of issuance. §16.6
 - Prepayment of fee. §16.6(A)
 - Record of licenses. §16.6(B)
 - Revocation, suspension and conditions of license. §16.4
- Licensing officer. §16.2(A), (B), §16.3(C), §16.4. §16.22, §16.32
- Junk yards and junk dealers. Article III. §16.31, et. seq.
 - Junk dealers. §16.32
 - Junk yards. §16.31
 - Licenses and fees. §16.33
- Penalty. Article IV, §16.50
 - Penalty. §16.50
- Scope of article. §16.1

Licensing Officer. §16.2 (see also Licensing of Businesses and Occupations)

Ambulances. §21.3

Peddlers and solicitors. §17.6

Taxicabs. §23.2

Littering. §44.12

Snow; throwing into street. §44.13

Trash or debris in highways; throwing. §44.14

Trucks and other vehicles. §44.15

Loitering. §65.71 (see also Public Safety)

M

Mayor

Fire prevention code inspector, may appoint. §55.3(C)

Fireworks, designation of mayor as permit authority. §65.51

Peddlers and solicitors; issue license, etc. §17.6(A)

Suspend requirements for officials in time of emergency. §2.7

Taxicab licenses. §23.2, §23.3, §23.4, §23.9, §23.11, §23.12

Village administrator, appoints. §5.2

Budget officer; Mayor may designate. §5.6

Effect on office of Mayor. §5.3, §5.7

Mobile Homes (see Housing and Zoning)

Flood regulations. §34.5.1 et seq.

Anchoring. §34.5.1.1-1(2)

Monuments; placing of, etc. §31.4

Municipal Code (see Public Safety)

N

Noise (see Public Safety)

Barking dogs. §54.33; complaint procedure. §54.37

O

Officers; designation of emergency interim successors. §2.3
(see also Government, continuity of)

Officers and Employees, defense and indemnification of. Chapter 3

Open Beverage Container's. §65.21 et seq.

P

Partial Tax Exemption (Senior Citizens). Chapter 81

Application, annual required. §81.3

Limitations on exemption. §81.2

Notice to applicants. (Repealed)

Offset to Medical Expenses §81.5

Partial tax exemption for certain persons over 65 years of age. §81.1

Penalties and forfeiture. §81.10

Parking. §60.41 et seq.

Parks and Recreation Areas. Chapter 41

Application of chapter. §41.2

Penalties. §1.10

Regulations relating to use of village parks. §41.3

Commercial enterprises. §41.3(10)

Conduct; generally. §41.3(8)

Damaging property prohibited. §41.3(3)

Firearms. §41.3(2)

Fires. §41.3(4)

Gambling. §41.3(7)

Garbage and refuse. §41.3(5)

Horses; riding. §41.3(3)

Hours. §41.3(1)

Hunting, fishing and trapping. §41.3(6)

Vehicles prohibited except in parking lots. §41.3(9)

Title. §41.1

Peddlers and Solicitors. Chapter 17

Bonds, when required. §17.5

Definitions. §17.1

Exemptions. §17.2

License required. §17.3

Application. §17.4

Contents and form. §17.9

Exhibition. §17.11

Fees. §17.12

Issuance. §17.6; refusal. §17.6(A); appeals. §17.6(B)

Loss of. §17.8

Revocation. §17.13

Term. §17.10

Non-profit organizations; exempt. §17.2(B)

Orders. §17.15

Penalty. §17.20

Prohibited acts. §17.14

Booth or stand; maintain. §17.14(F)

Mislead. §17.14(G)

Misrepresent. §17.14(D)

Noises. §14(E)

Schools, soliciting near. §17.14(C)

Signs; disobeying. §17.14(B)

Sympathy; appeal to. §17.14(H)

Time of soliciting. §17.14(A)

Use of license by another person. §17.7

Violation of; effect. §17.14(I)

Records. §17.16

Veterans' exemption. §17.2(A)[5]

Penalty when not Otherwise Prescribed. §1.10

Permits (see also specific Chapters)

Building permits (see Uniform Code Enforcement)

Building sewer permits. §46.41, §46.42

Parades. §60.61(11)

Poles and wires. §44.21

Sewers, building. §46.41, §46.42

Private. §46.32

Swimming pools. §35.3

Water service, permit required for special uses. §45.6

Planning Board (see also Subdivision Regulations and Zoning)

Flood damage prevention; service as appeals board. §34.6.1

Subdivision regulations. §31.1 et seq.

Approval. §31.2(B)[3],[4],[5]

Design standards. §31.3

Plans and data. §31.2(A)[2]

Plats and data. §31.5

Zoning.

Amendments submitted to. §30.51(A)

Applications, review by. §30.45(F)

Planned development districts. §30.28

Plats (see Subdivision Regulations)

Police Department.

Parking meters. §60.55

Unsafe buildings, duties of police department. §33.11

Plumbers. §45.11 (see also Water Service, infra)

Board of trustees to authorize work. §45.11(1)

Bond to hold village harmless. §45.11(3)

Dissolution of firm; effect. §45.11(9)

Forfeiture or suspension of license. §45.11(8)

General conditions and restrictions. §45.11(5), §45.3

Place of business or shop; duty to maintain. §45.11(10)

Petition to board of trustees to conduct business of. §45.11(2)

Contents; proof of qualifications, etc. §45.11(2)

Taps; notice to village clerk for village to do work. §45.11(12)

Transfer of permit prohibited. §45.11(11)

Use of name by another prohibited. §45.11(6)

Violations by journeyman plumbers, employing plumber responsible. §45.11(7)

Written permission to perform work. §45.11(4)

Poultry. (see Animals)

Public Conduct (see Public Safety)

Public Safety. Chapter 65

Alms, soliciting. §65.6

Curfew. §65.10 et seq. (see Curfew, supra)

Disturbances in places of public assembly. §65.2

Fire safety. Article IV, §65.41 et seq.

False alarm. §65.41

Hose, injuring of. §65.42

Interfering with fire chief or his assistants. §65.45

Obstructing firemen. §65.43

Obstruction near hydrant. §65.44

Fireworks permits. Article V, §65.51
 Designation of Mayor as permit authority. §65.51
Guns or weapons, discharge of. §65.4
Intoxication, public. §65.5
Loitering. Article VI, §65.71
 Public building. §65.71(A)
 Public streets. §65.71(B)
Noise. Article III, §65.31 et seq.
 Animal or bird noise. §65.31(B)
 Exceptions. §65.32
 Instrument noise. §65.31(D)
 Prohibition of certain noises. §65.31
 Suspend provisions, authority to. §65.33
 Unnecessary noises, generally, §65.31(A)
 Vehicle noise. §65.31(C)
 Yelling or shouting noise. §65.31(E)
Open containers in vehicles. §65.22
Open containers of alcoholic beverages prohibited. §65.21
Penalty. Article III, §65.81
Riotous conduct. §65.1
Sidewalks, sliding on. §65.8
Signs, posting. §65.9
Spitting. §65.10
Stones or missiles, throwing of. §65.3
Village property, injuring of. §65.7

Q

R

Recreation and Vacation Trailers §30.22(A)[7]

Recreation Commission. Chapter 6

 Budget, annual; gifts. §6.5

 Submission to village board. §6.5

 Establishment of. §6.1

 General powers; recreational or cultural activities. §6.2

 Gift to. §6.2

 Organization. §6.2

 Recreation director. §6.4

 Reports. §6.6

Recreation Director. §6.4

Repeals; effect of. §1.4; §1.5

Resolutions

Village justice, abolishing office of. P. R-5

Rules of Construction. §1.3

S

Salesmen (see Peddlers and Solicitors)

Sanitary Sewers. Chapter 46

Agreements, special agreements permitted. §46.61

Building sewers and connections. Article IV, §46.41 et seq.

Conformity of construction to rules and regulations. §46.41 et seq.

Connecting standards. §46.49

Costs to be borne by owner. §46.43

Drainage connection to sanitary sewers prohibited. §46.48

Elevation, required of building sewer. §46.47

Guarding of excavations, restoration. §46.51

Inspection by superintendent. §46.50

Old sewers, when permitted. §46.45

Permits. §46.42

Classes of. §46.42

Required to connect with public sewer. §46.41

Separate. §46.44

Superintendent to inspect connections. §46.50

Definitions. §46.1

Laterals; duty of owner. §44.7

Measurements, test, analyses, §46.60

Penalties. Article VIII, §46.80

Continued violations. §46.80(C)

Liability, civil. §46.80(D)

Violation of. §46.62, §46.80(A)

Written notice of violation. §46.80(B)

Powers and authority of inspectors, Article VII, §46.71 et seq.

Easements, entry on. §46.73

Inspections, right to make. §46.71

Safety rules, observation of. §46.72

- Private sewage disposal. Article III, §46.31 et seq.
 - Compliance with state health recommendations. §46.34
 - Connection with public sewer when available. §46.35, §46.38
 - Health officer may impose additional requirements. §46.37
 - Inspection. §46.33
 - Operation at owner's expense. §46.36
 - Permit required; fee. §46.32
 - Private sewage disposal. §46.31
- Prohibited wastes or waters. §46.54
 - Flammable liquids, etc. §6.54(1)
 - pH lower than 5.5, §46.54(3)
 - Solids or viscous substances, §46.54(\$)
 - Toxic or poisonous solids, etc. §46.54(2)
- Protection from damage. Article VI, §46.62
 - Penalty for damaging or tampering with sewer. §46.62
- Public sewers, use of required. Article II, §46.62
 - Connection to available public sewer required. §46.24
 - Discharge of untreated sewage prohibited. §46.22
 - Privies, septic tanks and other facilities restricted. §46.56(B)
 - Unsanitary disposal of wastes, prohibited. §46.21
- Public sewers, use of. Article V, §46.42 et seq.
 - Discharge; remedies. §46.56
 - Superintendent may impose. §46.56 (A)
 - Superintendent to review and approve pre-treatment. §46.56(B)
 - Discharge; restrictions on certain wastes. §46.55
 - Acid. §46.55(\$)
 - Fats, greases or oils. §46.55(2)
 - Miscellaneous. §46.55(9), (10)
 - Not amenable to treatment. §46.55(10)
 - Objectionable or toxic substances. §46.55(5)
 - pH. §46.55(8)
 - Phenols. §46.55(6).
 - Radioactive wastes. §46.55(7)
 - Shredded garbage. §46.55(3)
 - Temperature. §46.55(1)
 - Facilities to be maintained by owner. §46.58
 - Interceptors, when required. §46.57
 - Manholes, when required. §46.59
 - Stormwater or unpolluted drainage. §46.53
 - Surface waters prohibited in sanitary sewer. §46.52
- Sewer rentals. Article IX, §46.91 et seq.
 - Levy and collection of sewer rents. §46.92
 - Sewer rents; establishment of, use of revenue. §46.91
 - Quarterly rentals. §46.92(A)
 - Billing dates. §46.92(B)
 - Collection. §46.92(D)
 - Water consumption; based on. §46.92(C)

User charge system. Article X, §46.101 et seq.

Appeals. §46.110

Procedures. §46.110(B)

Obligation to pay not suspended. §46.110(B)[4]

Response by village board. §46.110(B)[2]

Testimony, taking of. §46.110(B)[3]

Time limits. §46.110(B)[1]

Written application. §46.110(A)

Basis for charges. §46.103

Costs of operation and maintenance. §46.103(A)

Annual operation and maintenance. §46.103(C)

Flat rate. §46.103(B)

Alternate measurements. §46.103(D)

Billings. §46.106(A); failure to receive. §46.103(C)

Definitions. §46.102

Enforcement. §46.112(H)

Factors affecting charges. §46.105

Based on water meter readings. §46.105

Estimates; when used. §46.105(E)

Minimum charge. §46.105(D)

More than one user. §46.105(C)

Sewer rental in addition to other fees. §46.105(A)

User charge rates. §46.105(G)

Uses which cause increase of costs. §46.105(F)

Wastewater from source other than public water supply. §46.105(I)

Water not entering sanitary sewer. §46.105(H)

Inconsistent agreements. §46.108

Industrial users. §46.112

Applications for permit. §46.112(A)

Assignment of permit. §46.112(E)

Enforcement. §46.112(H)

Maximum time period. §46.112(F)

Modifications by village. §46.112(C); by permit holder. §46.112(D)

Revocation of permit. §46.112(G); grounds. §46.112(G)[1-5]

Terms and conditions. §46.112(B)

Outside interests. §46.109

Legislative enactments. §46.109(A)

Revenue, use of. §46.109(B)

Periodic review. §46.111

Annually. §46.111(A)

Excess revenues. §46.111(C)

Notification annually. §46.111(B)

Purpose. §46.101

Surcharges. §46.107; assessment. §46.107(B)

Concentrations exceeding limits. §46.107(A)

Reimburse village by significant users. §46.107(C)

Use of funds. §46.104
Financial management system. §46.104(C)
Fiscal year-end balance; use for designated purposes. §46.104(B)
Separate fund. §46.104(A)

Senior Citizens Tax Exemption (See Partial Tax Exemption, supra)

Shooting Gallery; License Required. §16.21

Sidewalks (see Streets and Public Places)

Signs; Outdoor Advertising Signs. §30.33

Snow; Throwing into Streets Prohibited. §44.13

Solid Fuel Heating Appliances. §26.39

Speed Limits. §60.31 et seq.

Spitting. §65.10

State Building Construction Code; Replaced by Uniform Code. §27.5 (see also Uniform Code Enforcement, infra)

Streets and Public Places. Chapter 44

Animals, fastening of. §44.16

Awnings; regulated. §44.10

Barricading street openings. §44.2

Barriers or excavations in streets. §44.4

Warning lights; removal prohibited. §44.5

Bill posting and billboards. Article V, §44.51. et seq.

Advertisements on sidewalk, hydrant and poles. §44.51

Billboards. §44.52

Fences not to be used. §44.53

Bonds, indemnity (see indemnity bonds (infra.))

Building materials, storage of in street. §44.3

Encroachment of buildings into street. Article III, §44.35

Buildings not to project into street. §44.35

Excavations; permission required. §44.1

Indemnity bonds. §44.71

Grass and weeds; Article IV. §44.41 et seq.

Control of grass and weeds on private property. §44.42

Enforcement procedures. §44.45

Space between street lines and curb space, to be kept free from weeds
and obstructions. §44.41

- Indemnity bonds. Article VII, §44.71 et seq.
 - Agreements in lieu of bond. §4.74
 - General bond. §44.73
 - Required. §44.71
 - Penalty of bond. §44.72
- Lateral sewers, repairing; owner's responsibility. §44.7
- Littering. §44.12
 - Littering by trucks, etc. prohibited. §44.15
 - Throwing or depositing of debris or trash in highways prohibited. §44.14
- Moving buildings. §44.19
- Obstructing entrance to public place. §44.18
- Shade trees. Article VI, §44.61 et seq.
 - Hitching horses or other animals to, prohibited. §44.62
 - Trimming or removal without permission prohibited. §44.61
 - Wires, not to be attached without consent. §44.63
 - How to be located, §44.64
- Sidewalks; maintenance and cleaning. §44.6
 - Driving on. §44.17
 - Obstructing prohibited. §44.8
 - Trap doors in. §44.9
- Snow, throwing into streets prohibited. §44.13
- Trees, planting. §44.20
- Warning lights; removal of prohibited. §44.5
- Wires and poles. Article II, §44.21 et seq.
 - Fire alarm reporting system priority. §44.24
 - Indemnification by village. §44.23
 - Location of poles. §44.29
 - Changing location. §44.32
 - Location stated in application. §44.22
 - Notice of change or alteration. §44.28
 - Permit required. §44.21
 - Poles branded by owner. §44.26
 - Power of chief of fire department. §44.30
 - Removal of dead wires and poles. §44.27
 - Reservation by village for fire alarm reporting system. §44.31
 - Size and general description of poles. §44.25

Subdivision Regulations. Chapter 31

- Definitions. §31.1
 - Streets and alleys. §31.1(B)
 - Subdivision. §31.1(A)

- Design standards. §31.3
 - Alleys. §31.3(B)
 - Blocks. §1.3(D)
 - Easements. §31.3(C)
 - Lots. §31.3(E)
 - Public sites and open spaces. §31.3(F)
 - Streets. §31.3(A)
- Final approval by board of trustees. §31.7
- Flood hazard reduction. §34.5.1-4
- Improvements, required. §31.4
 - Monuments. §31.4(A)
 - Utility and street improvements. §31.4(B)
 - Schedules. §31.4(C)
- Penalties. §31.10
- Planning board (see Planning Board)
- Plats and data. §31.5
 - Conditional approval. §31.5(B)
 - Existing conditions. §31.5(B)[1]
 - Basements. §31.5(B)[1(b)]
 - Boundary lines. §31.5(B)[1(a)]
 - Ground elevations. §31.5(B)[1(e)]
 - Key plan. §31.5(B)[1(1)]
 - Other conditions on tract. §31.5(B)[1(g)]
 - On adjacent land. §31.5(B)[1(h)]
 - Photographs. §31.5(B)[1(i)]
 - Proposed public improvements. §31.5(B)[1(k)]
 - Streets on and adjacent to tract. §31.5(B)[1(c)]
 - Title and certificates. §31.5(B)[1(m)]
 - Subsurface conditions. §31.5(B)[1(f)]
 - Utilities on and adjacent to. §31.5(B)[1(d)]
 - Zoning on and adjacent to tract. §31.5(B)[1(j)]
 - Plats and data for final approval. §31.5(C)
 - Certificate certifying compliance. §31.5(C)[3]
 - Contents of final plats. §31.5(C)[1]
 - Boundary lines of tract. §31.5(C)[1(b)]
 - Primary control points. §31.5(C)[1(a)]
 - Cross sections and profiles of streets. §31.5(C)[2]
 - Other data. §31.5(C)[5]
 - Protection covenants. §31.5(C)[4]
- Pre-application plans and data. §31.5(A)
 - General subdivision information. §31.5(A)[1]
 - Location map. §31.5(A)[2]
 - Sketch plan. §31.5(A)[3]
- Preliminary layout. §31.5(B)[2]
 - Other preliminary plans. §31.5(B)[3]

Procedure. §31.2

Conditional approval of final plat. §31.2©

Conform to preliminary layout. §31.2©[1]

Submission in writing. §31.2(C)[2]

Time limit for filing. §31.2(C)[3]

Conditional approval of preliminary layout. §31.2(B)

Action by planning board. §31.2(B)[3]

Filing of action. §31.2(B)[3]

Preliminary layout used as guide. §31.2(B)[5]

Preparation of preliminary layout. §31.2(B)[1]

Time limit. §1.2(B)[2]

Pre-application procedure. §31.2(A)

Approval of preliminary layout by planning board. §31.2(A)[2]

Submission of data to planning board. §31.2(A)[1]

Schedules of required utilities and street improvements. P. 31.9

Variances. §1.6

Conditions §31.6©

Hardship. §31/6(A)

Large scale development §31.6(B)

Superintendent of Public Works (see Sanitary Sewers and Streets and Public Places)

Storage of building materials in streets; permission required. §44.3

Trees and posts; authorize. §44.20

Water taps. §44.3(3)

Swimming Pools. Chapter 35; §27.24(G)

Construction and equipment. §35.5

Design and construction. §35.5(A)

Filtering equipment. §35.5(B)

Height. §35.5(F)

Ladder and steps. §35.5(C)

Plumbing. §35.5(G)

Referral to zoning officer. §35.5(E)

Safety equipment. §35.5(D)

Definitions and clarification. §35.2

Electrical work and heating. §35.8

Conformance with NYS building construction code. (see Uniform Code Enforcement, infra.)

Disturbance of adjoining owners prohibited. §35.8(B), §35.10

Safety restrictions. §5.8(C)

Existing pools. §35.11

- Fence. §35.7
 - Above ground pool. §35.7(B)
 - Deck fence. §5.7(F)
 - Distance from wall. §35.7(D)
 - Height. §35.7(C)
 - On ground pool. §35.7(A)
 - Ladder. §35.7(G)
 - Use of exterior walls of structures. §35.7(E)
- Housing code provisions. §27.24(G)
- Location. §35.4
- Maintenance. §35.9
- Penalties for violation. §35.20
- Permits. §35.3
 - Additions and alternations. §35.3(B)
 - Applications. §35.3(C)
 - Required. §35.3(A)
- Purpose. §35.1
- Use; reasonable. §35.10, §35.8(B)
- Water supply and drainage. §35.6
 - Drainage. §35.6(B)
 - Water supply. §35.6(A)

T

Taxes

- Job Incentive Tax Exemption (see Job Incentive Tax Exemption, supra)
- Partial tax exemption (senior citizens). Chapter 81
- Utility tax. Chapter 25
- Veterans Alternative Exemption; not granted. §83.2

Taxicabs. Chapter 23

- Application for licenses. §23.3
- Definitions. §23.1
- License required. §23.2
 - Counter signature and endorsement. §23.14
 - Fees for taxicab license. §23.7
 - Renewal of taxicab licenses. §23.6
 - Term of, display. §23.5
 - Transfer of license. §23.12
- Penalties. §23.15
- Suspension and revocation of licenses. §23.11
- Taxicab driver's license. §23.9; fee. §23.13
- Taxicab driver's qualifications. §23.8
- Taxicab driver's record. §23.10
- Use of similar name prohibited. §23.4

Town Justice; Authority to Issue Appearance Tickets; Violation of Dog Control Regulations.
§54.39

Traffic and Vehicles. Chapter 60

- Application of article on parking, standing, stopping. Article IV, §60.41
- Definitions. §60.1
- Delegation of powers. Article VI, §60.61
 - Chief of police to regulate traffic. §60.61
- Meters, parking. Article V, deleted. P. 60.11
- One-way roadways. §60.4
- Parking; all-night. §60.42
 - Parking prohibited in designated locations. §60.43
 - Parking time limited in designated locations. §60.46
- Pavement markings; application of. §60.83
- Penalties. Article IX, §60.100
 - Civil penalty. §60.100(B)
 - Parking violations. §60.11(B)[2]
 - Traffic infraction. §60.100(A)
- Removal and storage of vehicles. §60.81
 - Authority to impound. §60.81(A)
 - Notice of removal. §60.81(C)
 - Storage and charges. §60.81(B)
- Speed limits §60.31et seq.
 - Maximum school speed limits. §60.32
 - Maximum speed limits. §60.31; 30 M.P.H. §60.31; 35 M.P.H. §60.31(A)
- Standing prohibited in designated areas. §60.44
- Stop intersections. §60.22 (see also through highways, infra.)
- Stopping prohibited in designated areas. §60.45
- Through highways. §60.21
- Traffic control devices, authority to install. §60.3
- Traffic control signals. §60.71
- Truck exclusions. §60.82
 - 3 tons. §60.82(B)
 - 5 tons. §60.82(A)
- Turning movements. §60.2
- Yield intersections. §60.23

Trees; Shade. §44.61 et seq. (see Streets and Public Places, supra)

U

Unconstitutionality or Illegality. §1.6

Uniform Code Enforcement. Chapter 26

Area of responsibility. §26.3

State. §26.3(C)

State education department. §26.3(D)

Village. §26.3(A), (B), (E)

Building inspector. §26.21, §30.41

Acting. §26.23

Appearance tickets. §26.25(E)

Deputies. §26.22

Designation as public official. §26.21

Duties and powers. §26.25, §26.32

Applications and permits. §26.25(B)

Buildings permits. §26.31 et seq.

Demolitions. §26.31(D)

Enforce codes and laws. §26.25(A)

Notices and orders. §265.25(C)

Tests; may require. §26.25(D)

Restrictions on. §26.24

Building permits. §26.31, §30.42

Application for. §26.31

Amendments. §26.31

Approval. §26.32(B), (C)

Information required. §26.31(B)

Issuance. §26.31(A), §26.32; refusal. §26.32(D)

Term. §26.33(A); authority to proceed. §26.33(B)

Plans and specifications required. §26.31(C)

Fees. §26.34; building permits. §26.34(A); plumbing. §26.34(B)

Fire prevention. §26.34(C); electrical. §26.34(D);

Inspection. §26.34(E) refund. §26.34(F)

Performance of work under. §26.33

Refund. §26.34(F)

Revocation. §26.35

Certificates of occupancy. §26.41, §30.43

Application; affidavit. §26.41(D)

Inspection prior to issuance. §26.42

Issuance. §26.43; time limit. §26.43(B); certification. §26.43(C)

Required. §26.41(A)

Temporary use. §26.41(B); §26.44

Tests. §26.45

Cooperation of other departments. §26.27

Demolitions. §26.31(D)

- Electrical inspections. §26.51 et seq.
 - Authority of New York Board of Fire Underwriters, etc. §26.51
 - Certificate of compliance. §26.42(E)
 - Duties of inspector. §26.52
 - Emergencies. §26.42(C)
 - Inspections. §26.52(B)
 - Report to building inspector. §26.52(A), (D)
 - Exceptions. §26.55
 - Exemption permits. §26.54
 - Liability, no waiver or assumption. §26.56
 - Rates; schedule of. §26.53
 - Violation of article. §26.57
- Enforcement officer. §26.21
- Inspections. §26.38
 - Certificates of occupancy. §26.42
 - Periodic. §26.38(B)
 - Work under building permit. §26.38(A)
- Penalties. §26.24
- Purpose. §26.2
- Records and reports. §26.26
 - Annual summary. §26.26(B)
 - Permanent records. §26.26(A)
- Right of entry. §26.34(A)
 - Refusal to permit; procedure. §26.34(B)
- Short title. §26.1
- Solid fuel heating appliances, etc. §26.39
- Special permit use or variances; fees. §26.34(G)
- Stop orders. §26.36
- Variances and review. §26.28
- Violations and review. §26.28
- Violations; abatement of. §26.101
- Violations, penalties for. §26.100

Unsafe Buildings. Chapter 33

- Building inspector, dues of. §33.4
 - Appearance at hearings. §33.4(F)
 - Inspection of. §33.4(A)
 - Complaints. §33.4(A)
 - Violations reported by fire or police departments. §33.4(B)
 - Notification of owners. §33.4(C)
 - Report non-compliance to board of trustees. §33.4(E)
 - Time limit to make building comply. §33.4(D)

Board of trustees; duty of. §33.5
Costs charged as lien against building. §33.5(E)
Hearings. §33.5(B)
Notice to persons with interest in property. §33.5(A)
Orders based on findings. §33.5(D)
Report to village attorney. §33.5(F)
Written findings. §33.5(C)
Defined. §33.1
Emergency cases. §33.7
Fire prevention code procedures. §55.10
Firemen; duties of. §33.10
Liability, administrative. §33.9
Nuisances. §33.3
Owner, absent from village. §33.8
Police department; duties of. §33.11
Violation and penalties. §33.6

Utility Tax. Chapter 25

Definitions. §25.2
Disposition of. §25.14
Filing by utility. §25.4
Failure to, penalty. §25.8, §25.11
Imposition of. §25.1
Notices. §25.7
Offenses for revealing information; penalties. §25.13
Payment of tax. §25.5
Failure to. §25.11
Penalties. §25.14
Records of utilities. §25.3
Refund. §25.9
Return, sufficiency of. §25.6
Tax not to be added to bill. §25.10
Treasurer, not to disclose information. §25.13
Treasurer; rules and regulations. §25.12

V

Variances

Fees. §26.34(g)
Flood damage prevention. §34.6.1, §34.6.2
Subdivision regulations. §31.6
Uniform code. §26.28
Zoning. §30.44(B)[3]

Vehicles, Damaged (see Damaged, Dismantled, Inoperable Vehicles, supra; Traffic and Vehicles, supra)

Veterans Alternative Exemption Not Granted. Chapter 83

Intent of local law. §83.1

No exemption pursuant to RPTL §458-a. §83.2

Village Administrator. (Repealed)

Village Assessor.

Business tax exemptions. §82.3

Partial tax exemptions (senior citizens)

Furnish forms. §81.3

Notify applicants. §81.4

Unsafe buildings removal; assessment of costs. §55.10(D)

Village Attorney

Defend public employees. §33.9

Bonds to be approved by. §17.5

Indemnity bonds; approve. §44.71

Municipal lien against land for costs of repair, etc. §33.5(E), §33.5(F)

Unsafe buildings. §33.5(F)

Utility taxes; right to inspect. §25.13

Village Board (See Board of Trustees)

Village Clerk

Ambulance license. §21.2

Animals, fees received for seizure and impoundment. §54.5

Bingo, issue licensees, etc. §12.4

Filing of name, address and rank in order to succession with village clerk. §2.5

Games of chance; license. §13.3

Licenses, permits, filed with. §16.2(D)

Peddlers and solicitor's license. §17.4

Records. §17.16

Plumbing work. §45.11(4); taps. §45.11(12)

Taxicabs, licensees. §23.2, §23.14

Wires and poles, permits filed with. §44.21

Zoning; records, maps, amendments. §30.41(4)

Village Engineer

Subdivision regulations. §31.5

Required improvements. §31.5

Village Justice

Office abolished. P. §-5

Village Treasurer

- Disclosure of income by, unlawful. §25.13
- Grass and weeds, collection of; lien and charge against property. §44.45
 - Rules and regulations, make in compliance with law for collection of utility tax. §25.12
 - Utilities; records of. §25.3
- Taxicab licenses; endorse. §23.14
- Utility tax; duties. §25.3, §25.6, §25.8, §25.9, §25.12, §25.13, §25.14

W

Water Rates (see also Water Service)

- Non-resident consumers. §45.14(B)
- Resident consumers. §45.14(A)

Water Service. Local Law #4-2015

- Application for Service and Contracts §45-4 Page 14
 - Application for Water Service 4.1
 - Contracts with Delinquents 4.2
 - Individual Liability for Joint Service 4.6
 - Condition for Plumbing System 4.7
- Bills and Payments. §45-12 Page 30
 - Basis for Preparation of Bills 12.2
 - Bills Rendered and Due 12.3
 - Delinquent Accounts -12.4
 - Levy on Tax Rolls 12.6
- Charges §45-5 Page 16
- Conditions of Service §45-3 Page 14
 - Connection to the Public Water Supply -3.2
- Cross Connection and Interconnections §45-13 Page 32
- Definitions §45-1 Page 6
- Existing Installations §45-18 Page 43
- General §45-20 Page 44
 - Inspection 20.1
 - Turn On/Turn Off Charge 20.2
 - Interference with Village Property 20.3
 - Service of Notices 20.4
 - Complaints 20.5
 - Service not Guaranteed 20.6
 - Restriction of Supply 20.7
 - Water Hammer 20.8
 - Acts of Village Employees and/or Others 20.9
 - Miscellaneous Work and Service Furnished by the Village 20.10
 - Tapping Fees 20.11 Page 46
 - Availability of This Local Law 20.12

- Meters §45-7 Page 22
 - General 7.1
 - Size of Meter 7.2
 - Location 7.3
 - Installation of Meter 7.4
 - Maintenance Care and Responsibility for Damage 7.5
 - Meter Tests 7.6
 - Changes in Location of Meters 7.7
 - Seals 7.8
 - Leaks 7.9
 - Reading and Registration of Meters 7.10
 - Access to Meters 7.11
 - Notification Relative to Condition of Meter 7.12
 - Minimum Charge 7.13
 - Meter Removal 7.14
- Penalties §45-19 page 44
- Private Fire Protection Service §45-10 Page 28
- Public Fire Service §45-9 Page 27
- Responsibility for Fire Service §45-11 Page 30
- Regulation for Air Conditioning Systems §45-14 Page 33
- Revocation of Permit §45-17 Page 43
- Sanitary Protection §45-15 Page 34
- Service Connections §45-6 Page 16
 - Service Line Extension 6.1
 - Installation 6.2
 - Maintenance-Service Line Extension 6.3
 - Length of Service Line 6.4
 - Penalty of Service Line 6.5
 - One Service Connection for Each Customer 6.6
 - Single Service Line with Two or More Customers 6.7
 - Other Service Line Extension Requirements 6.8
 - Changes in Location of Service Line Connection 6.9
 - Renewal of Service Line 6.10
 - Use of Curb Stops 6.11
- Service Termination §45-8 Page 26
 - By Customer 8.1
 - By Village 8.2
 - Renewal of Service After Discontinuance 8.3
 - Suspension of Service Due to Emergency 8.4
- Water Main Extensions §45.16
 - Application for Extension 16.1
 - Legal Requirements to be Met 16.2
 - Responsibility for Cost 16.3
 - Design 16.4
 - Construction 16.5
 - Materials for Water Pipe and Appurtenances 16.6
 - Water Pipe Installation 16.7

Testing 16.8

Liability Insurance Coverage During Construction Period 16.10

Weeds. §44.42(A) (see Grass and Weeds, Article IV, Streets and Public Places)

X

Y

Yards (see also Zoning)

Board of appeals. §30.44

Industrial uses. §30.27(B)[1]; may permit radio or television towers.

§30.25(B)

Corner lots. §30.37

Front yard transition. §30.35

Porches, steps and terraces. §30.38

Z

Zoning. Chapter 30

Administration. §30.41 et seq. (see enforcement, this heading, infra.)

Amendments. §30.51

Definitions. §30.2

Districts, establishments of. §30.21

B-1 districts, general business districts, regulations. §30.25

Accessory buildings and uses. §30.25(A)[13]

Building height limit. §30.25(C)

Off-street parking. §30.25(H)

Percentage of lot coverage. §30.25(E)

Required lot area. §30.25(D)

Setback for B-1 District, §30.25(G)

Uses permitted. §30.25(A)

Retail stores. §30.25(A)[1,4]; personal service and laundries. §30.25(A)[2]; banks, offices, studios. §30.25(A)[3]; restaurants, etc. §30.25(A)[5]; theaters, etc. §30.24(A)[6]; hotels. §30.25(A)[7]; motor vehicle sales. §30.25(A)[8]; garage or filling station. §30.25(A)[9]; funeral directing. §30.24(A)[10]; passenger station, printing plant, machine shop, etc. §30.25(A)[1]; wholesale business. §30.25(A)[12]

- Special permit uses. §30.25(B)
 - Light industrial. §30.25(B)[1]
 - Examples. §30.25(B)[2]
- Subject to. §30.45
- Yards required. §30.25(F)
 - Front yard. §30.25(F)[1]
 - Side yards. §30.25(F)[2]

- B-2 districts, restricted business districts; regulations. §30.26
 - Accessory buildings and structures. §30.26(A)[7]
 - Building height limit. §30.26(C)
 - Off-street parking. §30.26(G)
 - Percentage of lot coverage. §30.26(D)
 - Setback for B-2 districts. §30.26(F)
 - Uses permitted. §30.26(A)
 - Mobile homes. §30.26(A)[1]; retail stores. §30.25(A)[2,5]
 - Personal service and laundries. §30.26(A)[3], banks, offices,
Studios. §30.26(A)[4]; funeral directing. §30.26(A)[6]

- Special permit uses. §30.26(B)
 - Light industrial. §30.26(B)[1]
 - Examples. §30.26(B)[2]
 - Subject to §30.45, §30.26(b)
- Yards required. §30.26(E)
 - Front. §30.26(E)[1]
 - Rear. §30.26(E)[3]
 - Side. §30.26(E)[2]
- I-1 districts, general industrial districts, regulations. §30.27
 - Building height limit. §30.27(C)
 - Lot area and percent of lot coverage. §30.27(E)
 - Off=street parking. §30.27(F)
 - Uses permitted. §30.27(A)
 - All industrial not otherwise permitted; prohibited. §30.27(A)[1]
 - Junk yards, etc. §30.27(A)[2]
 - Uses prohibited. §30.27(B)
 - Noxious or injurious. §30.27(B)
 - Yards required. §30.27(D)
 - Compliance with district requirements. §30.27(D)[3]
 - Rear. §30.27(D)[2]
 - Side. §30.27(D)[1]
- MF districts, medical facilities districts. §30.29
 - Accessory buildings and structures. §30.29(A), (B)
 - Building height limit. §30.29(B)
 - Lot coverage. §30.29(D)
 - Minimum floor area. §30.29(C)
 - Off-street parking. §30.29(F)
 - Uses permitted. §30.29(A)
 - Hospitals. §30.29(A)[1]; medical and dental offices. §30.29(A)[2]
 - Yards required. §30.29(E)
- Planned development district. §30.28 (see also infra, this title)
- R-1 districts, one-family residential, regulations. §30.22
 - Accessory uses and buildings. §30.22(A)[6]
 - Building height limit. §30.22(B)
 - Cemeteries; special use. §30.22(A)[8]
 - Percentage of lot coverage. §30.22(D)
 - Required lot area. §30.22(C)
 - Uses permitted. §30.22(A)
 - One family dwelling. §30.22(A)[1]; churches, etc. §30.22(A)[2]
 - Public parks, etc. §30.22(A)[3]; schools. §30.22(A)[4];
 - Agricultural operations. §30.22(A)[5]
 - Yard, required. §30.22(E)
 - Front. §30.22(E)[1]
 - Rear. §30.22(E)[3]
 - Side. §30.22(E)[2]

- R-2 districts. §30.23
 - Building height limit. §30.23(B)
 - Customary home occupations. §30.23(A)[3]
 - Percentage of lot coverage. §30.23(C)
 - Uses permitted. §30.23(A)
 - All R-1 uses. §30.23(A)[1]
 - Two family dwelling. §30.23(A)[2]
 - Yard, required. §30.23(D)
 - Front yard. §30.23(D)[1]
 - Rear yard. §30.23(D)[3]
 - Side yard. §30.23(D)[2]
- R-3 districts, multiple residential districts. §30.24
 - Automobile storage or parking space. §30.24(E)
 - Building height limit. §30.24(B)
 - Percentage of lot coverage. §30.24(C)
 - Uses permitted. §30.24(A)
 - All R-1 and R-2 uses. §30.24(A)[1]
 - Multiple family dwelling. §30.24(A)[2]; tourist home. §30.24(A)[3]; clubs and lodges. §30.24(A)[4]; fraternity and sorority houses. §30.24(A)[5]
 - Yards, required. §30.24(D)
 - Front. §30.24(D)[1]
 - Rear. §30.24(D)[3]
 - Side. §30.24(D)[2]
- Enforcement: Article IV, §30.41 et seq.
 - Board of appeals. §30.44
 - Notice of appeal. §30.44(A)
 - Powers and duties of. §30.44(B)
 - Building permits. §30.42; §26.31 et seq.
 - Building inspector. §30.41
 - Certificate of occupancy. §30.43
 - Enforcement provisions. §30.41
 - Special uses, permitted. §30.45
 - Existing violations. §30.45(D)
 - Expiration. §30.45(C)
 - General provisions. §30.45(A)
 - Required plan. §30.45(B)
 - Standards applicable to all special uses. §30.45(E)
 - Front yard transition between residential and industrial or business districts.

General provisions. Article III, §30.31 et seq.
 Corner lots, side yards for. §30.37
 Dwellings on pre-existing undersize and corner lots. §30.39
 Front yard transition. §30.35
 Height exceptions. §30.36
 Lot area reduction. §30.40
 Nonconforming uses. §30.31
 Change in nonconforming uses. §30.32
 Discontinuance. §30.32(B)
 Restrictions. §30.32(A)
 Outdoor advertising signs or displays. §30.33
 Porches, steps, terraces. §30.38
 Visibility at intersections. §30.34
 Height exceptions. §30.36
 Industrial uses, light; permitted in certain districts. §30.25(B), §30.26(B)
 Nonconforming uses. §30.31
 Map, zoning. §30.21 (B)
 Mobile homes. §30.26(A)[1]
 Permitted special uses. §30.45
 Board of appeals. §30.44(B)[4]
 Existing violations. §30.45(D)
 Expiration. §30.45(C)
 General provisions. §30.45(A)
 Plan required. §30.45(B)
 Planning board review. §30.45(F)
 Standards applicable to all. §30.45(E)
 Planned development districts. §30.28
 Amendment to Chapter 30. §30.28(6)
 Application. §30.28(2)
 Approval. §30.28(4)
 Preliminary plans required. §30.28(3)
 Public hearing. §30.28(5)
 Size. §30.28(1)
 Pre-existing nonconforming lots. §30.39
 Recreation or vacation trailers. §30.22(A)[7]
 Signs. §30.33
 Special use permits. §30.45(see permitted special uses, supra this title)
 Title, short. §30.1
 Variances. §30.44(B)[3]
 Violations and penalties. §30.100
 Yards; porches, steps and terraces. §30.38

Zoning Board of Appeals; Fire Prevention Review Board. §55.11

Zoning Map Amendments. §30.21(B); p. 30.9 et seq.

Zoning Officer (see Building Inspector)

Swimming pools, referral of design, etc. §35.5(E)